

# REGISTER

43

OF

## Debates in Congress,

COMPRISING THE

LEADING DEBATES AND INCIDENTS

OF THE

SECOND SESSION OF THE EIGHTEENTH CONGRESS:

TOGETHER WITH

### AN APPENDIX,

CONTAINING THE MOST

*Important State Papers and Public Documents*

TO WHICH THE SESSION HAS GIVEN BIRTH:

TO WHICH ARE ADDED,

**The Laws enacted during the Session,**

WITH A COPIOUS INDEX TO THE WHOLE.

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VOLUME I.

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## Preface.

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**THE REGISTER OF DEBATES IN CONGRESS** is intended to supply a deficiency in our Political Annals which the Editors have long perceived, and which has been universally acknowledged and regretted by those who have mingled in public affairs, and especially by such as have engaged in the active discharge of political duties. When we consider the importance of preserving the memorials of the Legislation of the country, it would be a matter of surprise that the undertaking should have been deferred so long as to fall into the present hands, if the magnitude of the undertaking, and its consequent hazard to the publishers, did not manifestly present serious obstacles to its execution. The favorable position of the Editors, their opportunities for obtaining accurate Reports of the Debates, operated upon by their conviction of the utility of such a work, have induced them to commence the Register, in defiance of its difficulties, without the aid or prospect of any other patronage than such as liberal and enlightened individuals may extend to it.

The object of the Register is to present, from year to year, in a portable but durable form, with facilities for ready reference to its contents, the History of the Legislation of the Government of the United States. In the **DEBATES**, which form the bulk of the volume, will be found the grounds on which the various propositions of the session were, at the time of their discussion, advocated or opposed. These Debates are not in all cases literally reported, but their substantial accuracy may be entirely relied upon: and, did this volume contain nothing more than the Debates, it might, as a manual for politicians, or a text book for students, claim a place in the library of every seminary, and in the closet of every reading man. But to render the volume still more valuable, there have been incorporated in it not only all the **MESSAGES** of the President of the United States to both Houses of Congress during the Session, but also, in the Appendix, such a selection of the most important **REPORTS** from the different departments of the Government, and from the leading committees of each House, as will afford a clear view of those features of the policy of the Government which may not be so fully developed in the Debates. To these are added the whole body of the Acts passed during the Session, in a form to be as implicitly relied upon as the official edition: the whole being rendered complete by an **INDEX**, by the aid of which the reader can instantly refer to any subject embraced in the volume.

No merit is claimed for the contents of the Register on the score of originality. It professes to be no more than a careful compilation of authentic materials. The merit, however, to which this work may justly prefer a claim, is that of faithful History, free from the bias of prejudice or prepossession, and from the accidental distortions to which all traditional accounts are liable. It is a History which cannot deceive, because it reflects, in the faithful mirror of Truth, not only the motives of public acts, but also the grounds on which those acts were opposed. Its impartiality may defy the most fastidious scrutiny.

Of the first attempt at a work of this kind, it would not be reasonable to expect that either the plan, or the execution of the plan, would be perfect. The Register makes no such pretension. The object of the work being to embody the Debates and striking Incidents only of the sittings of Congress, the possessor of this volume will be disappointed if he look to find in it a *Journal* of the two Houses of Congress. No part of their Proceedings is given except what involves Debate, or some Incident, novel or important in its character, and therefore worthy of preservation. The careful reader therefore will not be able to trace from

step to step, in these pages, each measure of which mention is made in the course of the Debates, &c.—but, by recurring to the Laws of the Session, at the end of the volume, he will be able to ascertain the final disposition of any particular measure, every measure not embraced in the body of the Laws having failed, by positive rejection, or, what is equivalent to a rejection, by not being finally acted upon during the Session. Nor will the curious or methodical reader of this work discover a regular account of the adjournments or recesses of the two Houses. He will find, on some days, no account of Proceedings in either House; on others, an account of Proceedings in one House and not in the other. These apparent omissions will be explained, in part, by adverting to the fact, that, besides the Sabbath, Saturday is almost uniformly a day of rest for Congress, and occasionally Friday also; and when the Proceedings of any day are not of general interest, they are not preserved. Wherever, in short, the reader finds no Proceedings recorded on any given day, or Proceedings in one House only, he will understand, either that neither House sat on that day, that no important proceedings took place in either House, or that the Proceedings of one House only were of general interest.

With these brief explanations, the Editors submit the Register to the Public, claiming their indulgence for any errors of omission or commission which may be discovered in it, and pledging themselves that with every year there shall be found a progressive improvement in the execution, if not in the plan, of the work.

# Register of Debates in Congress.

18th Congress, }  
2d Session. }

First Proceedings in Congress.

[DEC. 6—8, 1824.]

IN SENATE—MONDAY, DECEMBER 6, 1824.

This being the day fixed for the opening of the Second Session of the Eighteenth Congress, Mr. GALLARD, president pro tempore, in the absence of the Vice President, took the chair; and the roll being called over, it appeared that a quorum of members was present, and a committee was appointed, jointly, with such committee as the House of Representatives might appoint, to wait on the President of the United States, and inform him that the two Houses were assembled, and ready to receive any communication he might have to make, &c.

HOUSE OF REPRESENTATIVES.—SAME DAY.

At 12 o'clock this day, the SPEAKER, (Hon. HENRY CLAY, of Kentucky,) took the chair, and the roll being called, one hundred and eighty members answered to their names; and a committee was appointed on the part of this House to join with such committee as should be appointed on the part of the Senate, to wait on the President of the United States, and inform him that a quorum of both Houses is assembled, and ready to receive any communication he may have to make to them.

Mr. MITCHELL, of Maryland, offered the following resolution:

*Resolved*, That the Honorable the Speaker invite our distinguished guest and benefactor, Gen. LAFAYETTE, to a seat within the Hall of this House, and that he direct the manner of his reception."

This resolution gave rise to some conversation as to what would be the most proper mode of expressing the respect felt by this House towards the illustrious individual referred to, which resulted in the adoption of the following resolution, which was proposed by Mr. A. STEVENSON, as a substitute for the other:

*Resolved*, That a committee be appointed on the part of this House, to join such committee as may be appointed on the part of the Senate, to consider and report what respectful mode it may be proper for Congress to adopt to receive General LAFAYETTE, and to testify the very high gratification which he has afforded it by his present visit to the United States, made in pursuance of the invitation given to him by Congress, during its last session."

The committee was appointed, to consist, on the part of the House, of thirteen members.

IN SENATE—TUESDAY, DECEMBER 7, 1824.

On motion of Mr. BARBOUR, the Senate concurred in the resolution from the other House, respecting the reception of General LAFAYETTE.

A written message was received from the President of the United States, by Mr. EVERETT, (which will be found in the Appendix.)

The message was read, and,

On motion of Mr. LLOYD, of Massachusetts, it was

*Ordered*, That three thousand copies thereof be printed for the use of the Senate.

On motion of Mr. BARBOUR, it was

*Ordered*, That fifteen hundred copies of the documents accompanying said Message be printed for the use of the Senate.

HOUSE OF REPRESENTATIVES.—SAME DAY.

A Message was received from the President of the United States, by Mr. EVERETT, and read at the Clerk's table. (See Appendix.)

On motion of Mr. TAYLOR, the Message, with the accompanying Documents, were referred to a committee of the whole on the state of the Union, and 6,000 copies were ordered to be printed.

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IN SENATE—WEDNESDAY, DECEMBER 8.

Mr. BARBOUR, from the Joint Committee appointed to consider and report what respectful mode it may be proper for Congress to adopt to receive General LAFAYETTE, made the following report:

"The Joint Committee propose that each House adopt its own manner of receiving General LAFAYETTE.

"The Committee on the part of the Senate recommend that the President of the Senate invite General LAFAYETTE to take a seat, such as he shall designate, in the Senate Chamber: that the Committee deliver the invitation to the General, and introduce him into the Senate, and the members receive the General standing."

In delivering this report, Mr. BARBOUR stated that the Joint Committee, entertaining every wish to make the reception of General LAFAYETTE as complimentary as possible, yet found difficulties in the way of any arrangement for a joint proceeding, which were not easily removeable; and it was therefore thought by the committee, best for each House to adopt its own arrangements, and its own form, in the reception of that distinguished individual.

It was *resolved*, unanimously, That the Senate do concur in the report.

HOUSE OF REPRESENTATIVES.—SAME DAY.

On motion of Mr. TAYLOR, of New York, the House resolved itself into a committee of the whole on the state of the Union, Mr. P. P. BARBOUR, of Virginia, in the chair, and distributed, by a number of distinct resolutions, the various parts of the President's Message to the proper committees.

The several select committees, established by these resolves, were ordered to consist of seven members each, with the exception of that in relation to a provision for General LAFAYETTE, which was ordered to consist of thirteen.

Mr. MITCHELL, from the Joint Committee appointed to determine in what manner Gen. LAFAYETTE shall be received by the two Houses of Congress, asked and obtained leave to report, and presented the following:

"The committee appointed on the part of this House, to join such committee as might be appointed on the part of the Senate, to consider and report what respectful mode it may be proper for Congress to adopt to receive General LAFAYETTE, and to testify the very high gratification which he has afforded by his present visit to the United States, made in pursuance of the invitation given to him by Congress, during its last session, report:

"That they have met a committee of the Senate on that subject, and that the committees have agreed to recommend to their respective Houses that each House receive General LAFAYETTE in such manner as it shall deem most suitable to the occasion, and the committee recommend to the House the following resolutions:

*Resolved*, That the congratulations of this House be publicly given to General LAFAYETTE on his arrival in the United States, in compliance with the wishes of Congress, and that he be assured of the gratitude and deep respect which the House entertains for his signal and illustrious services in the Revolution, and the pleasure it feels in being able to welcome him, after an absence of so many years, to the theatre of his early labors and early renown.

*Resolved*, That, for this purpose, Gen. LAFAYETTE be invited by a committee to attend the House on Friday next, at one o'clock; that he be introduced by the committee, and received by the members standing, uncovered, and addressed by the Speaker, in behalf of the House, in pursuance of the foregoing resolution."

Sen. &amp; H. of R.]

*Reception of Lafayette.*

[DEC. 9—10, 1824.]

The resolutions were adopted unanimously, and so entered on record. The Committee of Invitation was appointed, to consist of 24 members, on suggestion of Mr. STEVENSON.

#### IN SENATE—THURSDAY, DECEMBER 9, 1824.

Mr. BARBOUR, from the committee appointed to perform that duty, reported that they had waited on General LAFAYETTE, with the invitation of the Senate, and that he had informed them he would wait on the Senate this day at one o'clock.

At one o'clock, General LAFAYETTE entered the Chamber of the Senate, accompanied by the Committee of that body. On entering the bar, Mr. BARBOUR, chairman of the committee, announced the presence of the General, in the following words: "We introduce General LAFAYETTE to the Senate of the United States;" whereupon, the President of the Senate and the Senators rose from their seats, and the General, advancing towards the Chair of the Senate, was invited by the President to take a seat, prepared for him on the right of the Chair.

Soon after the General was seated,

Mr. BARBOUR moved that the Senate adjourn.

Mr. LLOYD, of Mass. concurred in the wish for the Senate to adjourn, to afford the members an opportunity of paying their individual respects to Gen. LAFAYETTE.

The Senate then adjourned, and the Senators, individually, beginning with the President of the Senate, tendered him their respects, which were cordially and feelingly reciprocated.

#### HOUSE OF REPRESENTATIVES.—DEC. 10, 1824.

Mr. CONDUCT, of New Jersey, moved that a messenger be sent to the Senate of the United States, inviting that body to attend in the Chamber of Representatives, at one o'clock, to day, on the reception of General LAFAYETTE.

It was objected to the adoption of this motion, that the Senate had, yesterday, adjourned over to Monday. The question, however, was taken, and the motion passed in the affirmative—ayes 90, noes 69.

Seats were accordingly ordered for the members of the Senate, who shortly after entered, and took the places assigned them.

At one o'clock, according to previous arrangement, General LAFAYETTE appeared, attended by the Committee of twenty-four members of the House of Representatives, and was introduced to the House by Mr. MITCHELL, chairman of the committee.

On the General's entry, the members and persons admitted on the floor of the House, rose, and remained standing, uncovered.

Mr. SPEAKER then rose, and, in behalf of the House, addressed the Nation's Guest, in the following eloquent strain, adorned by those graces of oratory for which he is distinguished:

"GENERAL: The House of Representatives of the United States, impelled alike by its own feelings, and by those of the whole American People, could not have assigned to me a more gratifying duty than that of being its organ to present to you cordial congratulations upon the occasion of your recent arrival in the United States, in compliance with the wishes of Congress, and to assure you of the very high satisfaction which your presence affords on this early theatre of your glory and renown. Although but few of the members who compose this body, shared with you in the war of our Revolution, all have a knowledge, from impartial history, or from faithful tradition, of the perils, the sufferings, and the sacrifices, which you voluntarily encountered, and the signal services in America and in Europe, which you performed, for an infant, a distant, and an alien people; and all feel and own the very great extent of the obligations un-

der which you have placed our country. But the relations in which you have ever stood to the United States, interesting and important as they have been, do not constitute the only motive of the respect and admiration which this House entertains for you. Your consistency of character, your uniform devotion to regulated liberty, in all the vicissitudes of a long and arduous life, also command its highest admiration. During all the recent convulsions of Europe, amidst, as after, the dispersion of every political storm, the people of the United States have ever beheld you true to your old principles, firm and erect, cheering and animating with your well-known voice, the votaries of Liberty, its faithful and fearless champion, ready to shed the last drop of that blood which, here, you so freely and nobly spilt in the same holy cause.

"The vain wish has been sometimes indulged, that Providence would allow the Patriot, after death, to return to his country, and to contemplate the intermediate changes which had taken place—to view the forests felled, the cities built, the mountains levelled, the canals cut, the highways constructed, the progress of the arts, the advancement of learning, and the increase of population. General, your present visit to the United States is the realization of the consoling object of that wish. You are in the midst of posterity! Every where you must have been struck with the great changes, physical and moral, which have occurred since you left us. Even this very city, bearing a venerated name, alike endeared to you and to us, has since emerged from the forest which then covered its site. In one respect, you behold us unaltered, and that is in the sentiment of continued devotion to liberty, and of ardent affection and profound gratitude to your departed friend, the Father of his Country, and to your illustrious associates in the field and in the Cabinet, for the multiplied blessings which surround us, and for the very privilege of addressing you, which I now exercise. This sentiment, now fondly cherished by more than ten millions of people, will be transmitted, with unabated vigor, down the tide of time, through the countless millions who are destined to inhabit this continent, to their latest posterity."

To which address, General LAFAYETTE replied, in a tone in which energy of character and sensibility of feeling were most interestingly blended, to the following effect:

"Mr. Speaker, and

Gentlemen of the House of Representatives:

"While the People of the United States and their honorable Representatives in Congress have deigned to make choice of me, one of the American veterans, to signify in his person their esteem for our joint services, and their attachment to the principles for which we have had the honor to fight and bleed, I am proud and happy to share those extraordinary favors with my dear Revolutionary companions. Yet, it would be, on my part, uncandid and ungrateful not to acknowledge my personal share in those testimonies of kindness, as they excite in my breast emotions which no adequate words could express.

"My obligations to the United States, sir, far exceed any merit I might claim. They date from the time when I have had the happiness to be adopted as a young soldier, a favored son of America. They have been continued to me during almost half a century of constant affection and confidence; and now, sir, thanks to your most gratifying invitation, I find myself greeted by a series of welcomes, one hour of which would more than compensate for the public exertions and sufferings of a whole life.

"The approbation of the American People, and their Representatives, for my conduct during the vicissitudes of the European Revolution, is the highest reward I could receive. Well may I stand "firm and erect,"



DEC. 13—14, 1824.]

Various Proceedings.

[Sen. &amp; H. R.]

when, in their names, and by you, Mr. Speaker, I am declared to have, in every instance, been faithful to those American principles of liberty, equality, and true social order, the devotion to which, as it has been from my earliest youth, so it shall continue to be to my latest breath.

"You have been pleased, Mr. Speaker, to allude to the peculiar felicity of my situation, when, after so long an absence, I am called to witness the immense improvements, the admirable communications, the prodigious creations, of which we find an example in this City, whose name itself is a venerated Palladium; in a word, all the grandeur and prosperity of these happy United States, which, at the same time they nobly secure the complete assertion of American Independence, reflect on every part of the world the light of a far superior political civilization.

"What better pledge can be given of a persevering national love of liberty, when those blessings were evidently the result of a virtuous resistance to oppression, and of institutions founded on the rights of man and the Republican principle of self-government? No, Mr. Speaker, posterity has not begun for me—since, in the sons of my companions and friends, I find the same public feelings, and permit me to add, the same feelings in my behalf, which I have had the happiness to experience in their fathers.

"Sir, I have been allowed, forty years ago, before a Committee of a Congress of thirteen States, to express the fond wishes of an American heart. On this day I have the honor, and enjoy the delight, to congratulate the Representatives of the Union, so vastly enlarged, on the realization of those wishes, even beyond every human expectation, and upon the almost infinite prospects we can with certainty anticipate.

"Permit me, Mr. Speaker, and gentlemen of the House of Representatives, to join, to the expression of those sentiments, a tribute of my lively gratitude, affectionate devotion, and profound respect."

After the GENERAL and the Members had resumed their seats, and a short pause occurred,

Mr. MITCHELL, the organ of the Committee of resolution, moved an adjournment.

The motion was agreed to, and the House was adjourned to Monday.

The SPEAKER then descended from the Chair, and most affectionately saluted the General. His example was followed by the Members of the House, individually, and some time was spent in this agreeable manner before the GENERAL retired.

#### HOUSE OF REPRESENTATIVES—DEC. 13, 1824

The engrossed bill (lying over from last session) "to authorize the state of Ohio to sell and convey certain tracts of land granted to said state for the use of the people thereof," was read a third time.

Mr. VINTON, of Ohio, rose, and explained the object of this bill, and the considerations which recommended its passage. The grant of these lands, on account of the salt springs upon them, to the state of Ohio, was subject to the condition that the state should not sell them, nor lease them for a longer term than ten years. The object of this reservation was, to prevent a monopoly of this indispensable article of subsistence. Since this grant, however, it had been ascertained that there was in the state an abundance of resources for the manufacture of salt; and springs had been discovered and worked, so superior in the quantity and quality of the salt, as entirely to supersede the use of those on the reserved lands. These lands were, consequently, in their present condition, of no value to the state, and the state, therefore, wished to be allowed to dispose of them. The state alone was interested in this question, the United States having neither title to, nor interest in, these lands, having ceded both to the state of Ohio.

The bill was then PASSED nem. con. and sent to the Senate for concurrence.

An engrossed bill, also, of the last session, "authorizing repayment for land erroneously sold by the United States," was read a third time, PASSED, and sent to the Senate for concurrence.

On proceeding to call over the roll of bills reported at the last session, and laid over—

Mr. FULLER, of Massachusetts, moved that the House go into committee of the whole on that bill which proposes to authorize the building of ten additional sloops of war. The motion was negative—ayes 72, noes 79.

The House then went into committee of the whole, Mr. LATHROP in the Chair, on the bill more effectually to provide for the punishment of certain crimes against the United States, and for other purposes. The bill having been read in part, Mr. BARBOUR, expressing an opinion that its provisions were inadequate to cover all cases necessary to be provided for, and that it would probably require additional provisions, moved that the committee rise and report progress. The committee rose accordingly, and had leave to sit again.

#### IN SENATE—TUESDAY, DEC. 14, 1824.

On motion of Mr. BARBOUR,

Resolved, That so much of the President's message as relates to Foreign Affairs, be referred to the Committee on Foreign Relations.

[The motion of Mr. BARBOUR, it was understood, comprehended, besides others, that portion of the Message which relates to arrangements for the suppression of piracy and of pirates on the Island of Cuba, &c. as well as on the water. The question of reference gave rise to some conversation on the part of Mr. BARBOUR, Mr. HAYNE, and Mr. LLOYD, of Mass. which was interesting, as it indicated a strong desire and determination in the Senate to leave no effort unemployed to effectually protect our commerce from piracy in the West Indian seas, and to extirpate the freebooters who now, by the facilities of concealment afforded to them in the Island of Cuba, &c. prey on our commerce, and commit such atrocities on those who fall into their hands. In the course of the conversation, Mr. HAYNE and Mr. LLOYD both intimated an intention they had respectively formed, to bring the subject fully before the Senate, by special inquiries.]

Mr. BENTON presented the petition of sundry inhabitants of the state of Missouri, on the subject of a trade and intercourse between that state and the internal Provinces of Mexico.

[This petition recited, that a beneficial trade had been carried on for some years between the inhabitants of the two countries, in which domestic cottons and other articles had been carried out from the United States, and gold, silver, furs, and mules, brought back in return; that the intervening tribes of Indians presented the only obstacle to the successful prosecution of the trade upon a large scale; that the merchandise had to be carried through a tract of country inhabited by different tribes, to enter whose territory, without a licence, was penal under the laws of the United States, and dangerous, unless the consent of the tribes was previously obtained; that some outrages to persons, and repeated depredations on property, had already been committed; and that a total interruption to the commercial and social intercourse, so happily begun in that quarter between the citizens of the two Republics, might be apprehended, unless the Government of the United States interposed for its protection. The petition, therefore, prayed—

1. That the right of an unmolested passage, for persons and property, upon a designated route, between the frontiers of Missouri and the internal provinces of Mexico, might be obtained by treaty stipulations from the Indians referred to.

Sen. &amp; H. of R.]

Various Proceedings.

[Dec. 14—15, 1824.]

2. That a military post and an Indian agency might be established on the Arkansas river, at the point of the intersection of that river by the proposed route.]

The petition, upon the motion of Mr. BENTON, was referred to the Committee on Indian Affairs.

## HOUSE OF REPRESENTATIVES—SAME DAY.

Mr. WRIGHT, of Ohio, offered the following resolution:

*Resolved*, That the Committee on the Judiciary be instructed to inquire into the propriety of providing, by law, that any judicial or other civil officer of the Government of the United States, who shall hereafter engage in fighting a duel, or in challenging, assisting, or encouraging, any other person so to engage, shall forfeit the office by him so held, and be ever afterwards rendered incapable of holding the like or other office under the Government.

Mr. TUCKER, of Virginia, called for the previous question of consideration, which was put, and the House agreed to consider the resolution.

Mr. POINSETT, of South Carolina, then moved to lay the resolution on the table; which motion was negative, and the resolution was adopted without a division being called for, though not without a considerable negative vote.

## IN SENATE, WEDNESDAY, DEC. 15, 1824.

The resolution offered yesterday by Mr. BROWN, to appoint a Committee on Roads and Canals, was taken up.

Mr. CHANDLER observed, that he was one of those who believed that this was a subject on which Congress had no right to legislate; that he believed it to be unconstitutional, and that, for his part, he was determined to raise his voice, and vote against the resolution.

Mr. RUGGLES said, it would be impossible to proceed regularly without a committee on this subject; that it was the practice of the Senate, and a very necessary one, to have such a committee.

Mr. NOBLE said he was sorry to find the gentleman from Maine opposed to the appointment of a committee on this subject. He thought the gentleman's scruples would have time enough to operate on his mind hereafter. He adverted to the circumstance of the President's calling the attention of Congress to the subject of internal improvements; and observed, in relation to the message, that, though he had not the greatest confidence in every part of it, yet he was very well satisfied with the opinion of the Executive on this important subject. He would vote for the resolution with an eye directed to the promotion of the general prosperity of the country.

The question was put and carried—ayes 18.

## HOUSE OF REPRESENTATIVES—SAME DAY.

The resolution yesterday offered by Mr. FORSYTH, calling for information relative to the treaty of 1804 with the Cherokee Indians, the causes for the delay in its ratification, &c. was taken up, and the question being on agreeing thereto—

Mr. FORSYTH rose, and said, that, upon a call for information of this description from the Executive, there might be a propriety in stating the grounds of it. It would be found, upon examination of the records of the government, here referred to, that, since the date of the Treaty of 1804, with the Cherokees, which was ratified at the last session of Congress, there had been several treaties concluded and ratified with the same nation of Indians. Mr. F. enumerated those treaties as follows:—In 1805, two treaties were concluded with them, by D. Smith and R. J. Meigs, Commissioners; in January, 1806, another was concluded with them at Washington, by Gen. Dearborn, then Secretary of War; in September, 1807, another treaty was concluded with them, elucidating the preceding, by Mr. Robertson and Mr. Meigs, Commis-

sioners; in 1809, some of their head men were in Washington to make arrangements for going to the West, and had much intercourse with the government; in March, 1816, two Treaties were concluded with them, by Mr. George Graham, then Acting Secretary of War; in September, 1816, a Treaty was concluded with them by Messrs. Jackson, Meriwether, and Franklin, Commissioners; in 1817, a Treaty was concluded with them at the Cherokee Agency, by General Jackson; in 1819, another by Mr. Calhoun, Secretary of War, at Washington. In every one of these cases, Mr. F. said, Colonel R. J. Meigs, well known to have been for many years agent of the United States in that nation, was either commissioner or witness to the treaty. That gentleman died on the 28th January, 1823; and during his life this treaty of 1804 was not ratified. But, the winter succeeding his death, in May, 1824, the ratification was claimed by the Cherokees, who came here for the purpose, and it was ratified. This House was, at the last session, invited to make an appropriation for carrying it into effect, but at so late a period of the session, that it was not acted upon. As they would be doubtless expected to make an appropriation to redeem the faith of the United States, pledged by this treaty, it was proper, before voting away the sum of \$20,000 for this purpose, the House should have information of the causes which had for twenty years suspended the ratification of this treaty.

Mr. MALLARY, of Vermont, objected to a part of the resolution, which proposes to inquire into "the motives of the ratification of the treaty at the last session," and moved to amend the resolve by striking out that part of it. He had no objection to every fact being obtained which had a bearing on the case—it was proper they should be called for—but he did not know that it would be relevant or perfectly decorous to ask of the Executive an explanation of the motives for its conduct.

Mr. FORSYTH, not feeling tenacious of the language of the resolution, consented to receive the amendment as a part of his resolution; and, thus amended,

The resolve was agreed to, *nem. con.*

The SPEAKER laid before the House a communication from the Department of the Treasury, accompanied by a report from the First Comptroller of the Treasury, with enclosures on the subject of the collection of tonnage duties on Canal boats.

Mr. STORRS moved that these papers be referred to the Committee on Commerce, with the following instructions, viz:

"That the communication and accompanying papers be referred to the Committee on Commerce, with instructions to inquire into the expediency of so amending the acts of Congress regulating the commerce of the United States, and imposing duties on tonnage, that they shall not be construed to extend to boats employed exclusively in transportation on the interior canals of the respective states."

Mr. NEWTON, (Chairman of the Committee on Commerce) suggested that it would be better to leave the committee at large, under the assurance that they would do justice to all parties in the case referred to.

Mr. STORRS explained that the object of his motion was merely to present to the consideration of the committee the expediency of the measure referred to.

Mr. TRACY doubted whether, by adopting the language of the instruction, it would not be conceding too much—inasmuch as he did not believe that the laws were susceptible of being so construed as to include the canal boats, which the instruction seemed to take for granted.

Mr. STORRS said he had taken particular care so to frame his motion as to avoid any such admission, as would be seen by referring to the expression "the acts shall not be construed to extend to boats," &c.

The motion of Mr. STORRS was then agreed to.

Dec. 16—17, 1824.]

*Judiciary.—Niagara Sufferers.*

[Sen. &amp; H. of R.]

On motion of Mr. STORRS, the communication received some days since, from the Governor of New York, on this subject, was referred to the same committee.

On motion of Mr. CAMBRELENG, the House then went into committee of the whole, Mr. TOMLINSON in the Chair, on the bill "to authorize the Secretary of the Treasury to adopt a new Hydrometer, &c."

Mr. CAMBRELENG, of New York explained to the committee the objects of the bill, which, he said, was as simple as its form. As early, he believed, as 1791, the government had, by law, adopted Dycas' Hydrometer for ascertaining the proof of spirits; that, since then, the ingenuity of our own countrymen had furnished us with many hydrometers, which had been found more accurate, and which were managed with more simple apparatus; that the bill merely proposed to leave it at the discretion of the Treasury, with the sanction of the President, to adopt such hydrometer as might be proved, by experiment and comparison, most accurate, and best adapted to the purpose, &c. &c.

The bill was then reported, and ordered to be engrossed for a third reading.

#### IN SENATE—THURSDAY, DECEMBER 16, 1824.

Agreeably to notice, Mr. TALBOT asked leave to introduce a bill further to regulate the jurisdiction of the Supreme Court of the United States.

Mr. MILLS suggested to the gentleman from Kentucky, that, since the subject had been referred, generally, to the Committee on the Judiciary, it had better be left to that Committee to consider and report on it. There was, he said, no doubt that the subject had become one of so great importance that it was the duty of the Legislature to act upon it. But he thought it would be more in order to leave it with the Committee on the Judiciary, who, he had no doubt, would turn their whole attention to a subject of such moment.

Mr. TALBOT said, that he did not perceive the force of the gentleman's remarks. This subject was before the Senate at the last session, and the bill he proposed would bring the whole subject before them at once.

Mr. JOHNSON, of Kentucky, said, he understood the usual course, after introducing a bill, whether of vital importance or no, was to refer it to the proper Committee. He presumed his colleague would have no objections to so referring it, provided the subject, in which the State of Kentucky has so deep a stake, should receive the early attention of the Committee.

Mr. TALBOT made some remarks in reply, when the question was taken, and leave being granted to introduce the bill, he introduced it accordingly, and it received its first reading.

#### HOUSE OF REPRESENTATIVES.—SAME DAY.

On motion of Mr. TRACY, the House went into committee of the whole on the bill "authorizing payment for property lost or destroyed by the enemy during the late war," which was read.

Mr. WRIGHT offered as an amendment a proviso, that the injuries sustained, for which indemnity is to be provided, shall have been caused by the occupation or use of the property by the United States.

Mr. TRACY went at some length into an explanation of the circumstances of the sufferers for whom this bill proposes relief, more especially those on the Niagara frontier (whom he had the honor to represent); the relief proposed to be given to them by the act of 1816; the interruption of that relief by a suspension of the power of the Commissioner of Claims; the proceedings of Congress thereon; the passage of a second law, in April, 1817, which altered and relaxed in some degree the restrictions before imposed. He quoted and commented on the words of this law, and stated the proceedings which were had under its authority. He ad-

verted to the introduction of a bill in 1818 to provide funds for paying the amount of the losses reported by a Commissioner appointed for that purpose under the former act, its failure, and the ill success which had since attended, in Congress, individual claims for indemnification, by his constituents, although other claims, of a similar nature, had succeeded. Under these circumstances, the present bill had been prepared, with a view to cover the whole mass of these claims, and bring their justice fairly before the House. Mr. T. went on to observe, that the greatest obstacle which had hitherto operated against this allowance was a doubt, or denial, that the loss of the property concerned was produced expressly by its use or occupation by the United States. The present bill only contemplated to provide for such cases as had been already decided upon favorably by the Commissioner, which cases it proposed to refer to one of the Auditors of the Treasury, limiting the allowance for losses to one-half the amount of personal property destroyed, but allowing the whole of the amount of real property which shall be reported by that officer to have been actually lost, &c.

Mr. WRIGHT rose in explanation, and in support of the amendment he had proposed. He adverted to the provisions of the previous acts, and compared them with those of the present bill, of which he complained as being too wide and unguarded. He thought that it was a correct principle, that compensation should be allowed for property destroyed during war, in those cases only in which the destruction of property had actually been caused by its having been used in the service of the United States.

The debate was about to proceed farther—when, on motion of Mr. DWIGHT, the committee rose, reported progress, and had leave to sit again.

#### HOUSE OF REPRESENTATIVES—DEC. 17, 1824.

Mr. TRACY moved to take up the bill authorizing payment for property lost or destroyed by the enemy during the late war; which was carried—Ayes 91, noes 42.

The House accordingly went into committee of the whole on that bill, Mr. CAMPBELL, of Ohio, in the chair.

Mr. WILLIAMS, of North Carolina, said, that he considered the question presented by this bill to be of nearly as great importance as any that would occur during the present session of Congress; as proposing to revive the famous act of March, 1816, which had been the cause of greater drain from the Treasury of the United States than had ever been made, upon the same principle, from the Treasury of any civilized government on earth; for no government ever had a standing law of the nature of that. The bill now before the House, in effect proposed a renewal of the most important section (the 9th) of that law. At this moment, Mr. W. said he felt himself entirely unprepared to go into such an examination of this question as it might require. He, therefore, hoped the House would indulge him, and others similarly situated, with further time for consideration of the subject. His object was not unnecessarily to delay the consideration of the subject; but he thought it important to have before the House, and in possession of every member, the correspondence which took place between Admiral COCHRANE and the Secretary of State relative to the burning of property on the Niagara frontier. There was another document, also, which he wished the House to be in possession of—a document originally brought here to carry these claims through the House, but which, since the year 1818, he had never been able to lay his hands upon. When these claims first appeared before the House, the claimants never pretended to rest them upon the ground that the buildings were occupied by the military authority at the time of their destruction.



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They then maintained that all these burnings took place on the ground of retaliation by the enemy; and believing that ground sufficient to sustain their claims, they produced all the proof of it that they could. But as the House had refused to allow the claims on that ground, they have now changed their position, and placed their claims on a different one. Mr. W. wished, for his part, to examine fully the pretext upon which a re-enactment of the pernicious law of 1816 was claimed; and with these views he wished the committee to rise, in order to have the papers printed.

Mr. CAMBRELENG, of New York, said, he hoped that no delay would be interposed in bringing this subject before the House—but that they should be called to act upon it immediately; being persuaded that they were as fully prepared to do so now, as they would be at any future time. He expressed his astonishment that, of all the members of the House, the Chairman of the Committee of Claims should profess any want of information on this subject—since, from his official situation, as well as the able and conspicuous share he had had in former discussions on this matter, he should have supposed him to be better informed of every circumstance relating to it, than any other person. If permitted to proceed, Mr. C. said that he should contend that, on the ground first taken by the claimants, viz. that the injury their property had sustained was inflicted by the enemy as a measure of retaliation, their claim was just, inasmuch as it was in retaliation of injuries first inflicted on the enemy by the express order of this government, through the late Secretary of War, in the burning of the village of Newark. On this ground, the claim was perfectly sustainable; as, also, it would be on the other ground assumed, viz. that the injuries were sustained in consequence of the occupation or use of the property by the United States. If either ground were established, these claims ought to be allowed.

Mr. WILLIAMS renewed his motion that the committee rise: but once more suspended it, at the particular request of Mr. TRACY, who made some explanation in reply to what Mr. W. had said, as to the disappearance of the document he had referred to. No public paper on the subject had been withdrawn, but, on the contrary, all the papers connected with the general subject, had been printed with the report of the committee.

The committee then rose, reported progress, and had leave to sit again; and on motion of Mr. WILLIAMS, the papers referred to whilst in committee of the whole, were ordered to be printed.

## IN SENATE—MONDAY, DEC. 20.

A letter was received from the Secretary of War, transmitting a report, made in obedience to a resolution of the Senate at the last session, of the names of the pensioners at present on the list, the several amounts paid to each, together with the state to which each belongs; also, a list of applicants for pension rejected; a list of the names of the widows and children of the several pensioners, with the amount paid to them, &c.

Mr. NOBLE made a motion that the report and accompanying documents be printed.

Mr. LOWRIE said that, in the year 1820, a report similar to the present was made, and ordered to be printed, the expense of which was very considerable, and a more useless expense he had never seen. He suggested to the chairman of the Committee of Pensions whether it would not be better to refer it to that committee.

Mr. NOBLE said, that the object of the resolution adopted at the last session, was to have merely a list of the names of the pensioners furnished to the Senate; but the object of the present motion was to have the volume, no matter how large, laid on the table of each member, that it might serve as a looking-glass in which to view our follies, but that a list of the names merely could be of no use whatever to the Senate.

After some further conversation between Messrs. LOWRIE, NOBLE, and CHANDLER, the motion to print the documents was lost, and the letter of the Secretary of War alone was ordered to be printed. Subsequently,

On motion of Mr. MACON, the document was referred to the Committee on Pensions, with instructions to inquire into the expediency of printing it.

## GENERAL LAFAYETTE.

Mr. HAYNE, from the committee to whom was referred the subject of making provision for Gen. Lafayette, reported the following bill:

"A BILL making provision for Gen. Lafayette.

"Be it enacted, &c. That the sum of Two Hundred Thousand dollars be, and the same is hereby, granted to Major General Lafayette, in compensation for his important services and expenditures during the American Revolution, and that, for this purpose, a stock to that amount be issued in his favor, dated the 4th of July, 1824, bearing an annual interest of six per cent. payable quarter yearly, and redeemable on the 31st December, 1834.

"Sec. 2. And be it further enacted, That one complete and entire Township of Land be, and the same is hereby, granted to the said Major General Lafayette, and that the President of the United States be authorized to cause the said Township to be located on any of the Public Lands which remain unsold, and that patents be issued to General Lafayette for the same."

The bill was twice read, by general consent, and Mr. HAYNE gave notice that he should move its third reading to-morrow.

## HOUSE OF REPRESENTATIVES.—SAME DAY.

Mr. A. STEVENSON, of Virginia, rose to ask the attention of the House to a subject which was interesting to Virginia, and merited an early consideration. It related to the *unsatisfied* claims of that state, for *advances of money* made by her for the use of the General Government, during the late war. The subject, Mr. S. said, had been presented to Congress by the President, in a very strong message, at the last session; but, owing to circumstances unnecessary to mention, had not been acted on. He wished it taken up, and finally disposed of. It was proper, however, that he should state to the House that Virginia would press the payment only of that part of the claim which related to *interest actually paid by her on moneys borrowed for the use of the General Government, and disbursed in its service*. He stated this fact, to prevent any *misunderstanding* as to the *character of the claim*, and the *principles* which it involved. Of its merits, Mr. S. said, he would not now speak. At a proper time, he would endeavor to shew to the House that the claim asserted by Virginia was founded in justice and authority, and ought to be paid. This, however, he would say, that, whatever the conduct of other States in the Union might have been during the late war, there was not one who had been more steadfast and disinterested in her services than Virginia, or more loyal in the devotion of her resources to the general defence. She now only asked that her claims should be speedily adjusted upon fair and just principles. This was due as well to this Government as to Virginia, and with that view he begged leave to submit the following resolution:

"Resolved, That the Committee on Military Affairs be instructed to inquire into the propriety of providing by law for the reimbursement of the amount of interest paid by the State of Virginia upon loans of money negotiated by her for the use of the General Government, during the late war between Great Britain and the United States."

Mr. HAMILTON, Chairman of the Committee on Military Affairs, suggested that, as this was a purely legal



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question, its proper direction was rather to the Committee on the Judiciary, than to that on Military Affairs.

Mr. STEVENSON observed that he felt no great solicitude as to what direction the resolution should take; but he thought his friend from South Carolina was mistaken in supposing that the resolution embraced a question of a purely legal character. It was a question which arose entirely out of military transactions. In sending it to the Military Committee, he had been guided by the suggestion of some of the oldest members of this House, whose opinions he had consulted, and also by the reference of a similar question in the other House of Congress.

Mr. HAMILTON adhered to his amendment, being persuaded that the resolution could in no case pertain to the Military Committee. If it did not properly belong to the Committee on the Judiciary, it ought to go to the Committee on Claims.

Mr. P. P. BARBOUR thought that, from the nature of the functions of the Committee on the Judiciary, (which had cognizance of courts and of laws,) this subject could not belong to them. The principle of the gentleman from South Carolina would send every question in which law was concerned to that committee. This was a question concerning disbursements for military service, and, as such, properly pertained, he should suppose, to the Committee on Military Affairs.

The question was then taken on Mr. HAMILTON'S amendment, and lost, when

Mr. SHARPE, of New York, moved to amend the resolution, so as to refer the subject to the Committee of Claims; which was carried,—ayes 94, noes 63.

Thus amended, the resolution was agreed to.

Mr. MALLAKY, of Vermont, then offered the following resolution:

*Resolved,* That the Committee on Naval Affairs be instructed to inquire into the expediency of making an appropriation for collecting materials, and preparing for the building of a steam vessel of war for the defence of Lake Champlain.

Mr. MALLAKY observed, that it was well known to the House, that the Government had, some time since, erected fortifications, on an extensive scale, with a view to the defence of Lake Champlain; but that, owing to a dispute or error with respect to the boundary line, which separates that part of the United States from Canada, those works had been abandoned. The lake was, in consequence, now left destitute of any defence whatever, as the navy, which, for a time, floated on its waters, was now dismantled, and fast going to decay. If the general principle of defence on which the country was acting, in relation to our Atlantic seaboard, was a just and wise principle, it surely applied with additional strength to a case where the country of the enemy was not on the other side of the Atlantic, but in immediate adjacency to our territory.

The resolution was adopted.

Mr. FLOYD, of Virginia, moved that the House go into committee of the whole on the state of the Union, with a view to take up the bill "for the occupation of the mouth of the Columbia (or Oregon) River;" which was agreed to, and the House went into committee accordingly, Mr. A. STEVENSON in the chair.

The bill was read by sections, and the several blanks were filled.

Mr. FLOYD, of Virginia, said, so much, Mr. Chairman, has been said and written on this subject, that I will be as concise as possible, as I do not wish to consume the time of the committee. This subject has been so long before the House, that I presume the mind of every gentleman must be satisfied as to the propriety of the measure; I will, therefore, only present a few new ideas and additional facts which are in my possession, and my inferences from those facts, and content myself,

with that defence of the measure, to leave the bill to its fate.

I know, that it is an opinion much urged, and generally adopted, that we should keep our population as much condensed as possible; that there would be danger in erecting a territory at so great a distance, as protection would be difficult, if not impossible, and that there would be danger of separation; that, in all military operations, the frontier to be protected should be as small as the nature of the case would permit, and that well fortified.

In replying to all these objections, I would not wish to be understood, as urging my own opinions. I will candidly state to the House, that, to me, it seems very doubtful, whether military posts and fortified places are at all necessary in a country situated as ours is. Notwithstanding these are my opinions, I am willing to grant any thing in reason which the administration of the country may think necessary to its defence. We often receive opinions from others, and from books, taking the subject up as presented by writers, rather than using them as the means of becoming acquainted with the matter, and, by our own mature reflection, apply them to the existing state of things. This, I believe to be the case, as it regards our notions of military defences. It is indeed true, that, in the early ages, Europe was held by some powerful nations, who fortified their cities. At that day, the nation was almost altogether in the city, the country being tilld by the poor sent out for the purpose, or by slaves; and, when it was overrun by the northern barbarians, they were obliged to defend themselves in these fortresses as they could; it was not war, but conquest and extermination.

The fierce contest was soon over; the country was parcelled out among the barons who followed their daring chief, or king, the great baron of the invading force.

Thus placed amid a new and beautiful country, fertile and abounding in wealth, these fierce and haughty barbarians soon engaged in acts of strife and mutual aggression. It became a matter of importance to each, to secure himself against the sudden attack of his neighbor, which, by means of beacon fires, kindled on the tops of mountains, a blast from the trumpet, or other signals of co-operation, interruptions were frequently made on each other's dominions, without an hour's notice; hence, strong castles or fortresses became necessary, or rather indispensable. Warring with each other, and sometimes with the king, filled up the space of many years. The executive, however, gradually increasing its power, violating the rights of the people, and constantly encroaching on the power of the barons, established itself more firmly; yet, the castles were not finally destroyed on the continent, until about the reign of Henry IV. As the barons were subdued, and their fortresses demolished, standing armies, by degrees, were introduced, and each king maintaining an army, greater perhaps than the actual state of things required, compelled his neighbor to resort to the like means for security and defence: thus the circle of the kingdom was fortified instead of the barony, and the nations of Europe came to fortify themselves against each other, just as the petty barons had done; the frontier was enlarged, but the system not changed; hence, the multitude of fortresses that cover Europe. Here, however, we have nothing of this sort to fear; our country is of such vast extent, that we are protected by it from the broils of petty powers, tormenting by their intrigues, and secure from the unwarrantable ambition of the great states, by being removed from them. We have no enemy, nor can have any, but such as comes from Europe—Europe, the disturber of the world!

Should we at any time, unfortunately, find ourselves involved in war with any power in Europe, we shall always have time enough to prepare for the event; and,

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as we should have to meet in battle, I believe it would be of little consequence to the American people, how, or where. Our large cities, concentrating much wealth, and attracting the attention of an enemy, ought to be secured by strong and judicious fortifications; for the rest, the arms of the citizens should be their fortresses, as none can doubt, that, in all time to come, should an enterprising enemy come to our shore, and wish to land, he can do so, in despite of all the fortifications raised, or to be raised. Again, might it not be an objection to this vast system of fortifying our frontier, the favorite plan of some, that the fortress might fall into the hands of an enemy, and offer him a safe place to obtain water, and secure their ships, and repair all damage to the army and navy? This occurrence would be a most serious thing to us. He would then have to be beaten out by a much superior force, which would require an expense correspondingly large, nor could these vast fortresses be safely entrusted to a few men; the force ought to be at least sufficient to man the works, which, at one point in Virginia, I have understood, would require from seven to ten thousand men, this too, at a place, where, during the late war, we had not a man. I repeat it, that, in my opinion, the rifle, and a knowledge of its use, is the best defense for our country, with the exception of the commercial cities, which should be secured by strong forts. Sparta thought so, in days long past; and Napoleon has proved, in the late wars of Europe, how easy it is to march by those fortresses, and conquer his enemy, which had cost so much time, labor, and expense, besides the loss of so many lives, in the fine armies commanded by Saxe, Marlborough, and others.

I am, nevertheless, willing to act prudently upon the plan approved to the country, and continue their plans; yet, admitting the course to be correct, the number of military posts, and the points at which they should be erected, becomes another question. For my own part, in casting my eyes over the country, I cannot perceive that more than twenty-three or four, or, at most, twenty-five, fortified places are necessary; they are these which I hold in my hand, and disposed as follows: Maine, Portsmouth, Boston, Rhode Island, Connecticut, New York, Delaware, Baltimore, Norfolk, perhaps Old Point Comfort, North Carolina, Charleston, Savannah, St. Augustine, Pensacola, Mobile, the Mississippi river, Plattsburg, Niagara, Detroit, some arsenals and depositories. The fortresses on the sea board might be taken care of by a portion of the infantry and the artillery; the residue might be distributed on the northern and western frontier.

There is, as I understand, a regiment at Sackett's Harbor, at this time, a force, in my opinion, too great for the post; part of that regiment could well be spared, or even a part of those now at the Council Bluffs, and posted at the mouth of Columbia or Oregon river, which would obviate any objection which might arise on that point.

If, however, this should be objected to, which I cannot perceive, from the fact that the army, small as some say it is, nevertheless is deficient by several hundred of its proper number, could be filled by enlistments for that service, or authority might be given to increase the army by law to two hundred common soldiers more, which, organized as our army is, could be done with perfect convenience, by adding a few men more to each company, and not cost more than, perhaps, two thousand dollars.

On the score of economy, this measure can be justified as the army now stands, to even a greater extent. The report originally presented to this House, contemplates also a post at the Mandan Villages, as well as at the mouth of the Oregon; troops at these points would relieve the necessity of intermediate posts, and not lengthen the line of defence; this would give greater security to the country, and, by diminishing the number of posts, diminish also the public expenditure.

It is, at all times, a disagreeable task for me to recur to the scenes which took place in the Western Country, thirty or forty years ago: none have so deeply suffered by those wars, agitated and produced by British agents and British traders: that country must be secure—these troubles shall cease—the trade ought to be our own.

The Western Country, perhaps, fared as well as circumstances would permit; our Government, at the peace of 1783, was in a situation which disposed it to agree to almost any terms of peace which should recognize the independence of our country; I do not mention it in terms of reproach, on the other hand, they were wise and prudent. But the British were on better ground to negotiate; they provided for their trade; they knew well the value of the fur trade of the West, and the immense influence it gave her over the Indian, which, according to her avowed principles, she could use in war. That trade was demanded, and it was wholly surrendered to them. England has shown, in all her treaties, that she knew well the value of this trade, and, from the moment she got possession of Canada until the present time, she has cherished it; and, in her late treaty with us, she has displayed her sagacity and great knowledge of the subject, and the value of the trade of the Oregon. She has driven our citizens from that country: we can no longer trade there; and, by an arrangement with the East India Company, and South Sea Company, their traders are permitted to ship their goods from London and Liverpool direct to the mouth of that river. Our traders, on the other hand, have two shipments to make, paying a duty of from 25 to 37½ per cent. so that, when they come into competition with the Briton, he is only selling at cost that which the Englishman is disposing of at a profit equal to the duty paid by us: the occupation contemplated by this bill, with the aid of a Custom House, at no distant day would go far to remedy this evil.

It has been hinted by some, that the inhabitants of Oregon, in time, might become strong, and be disposed to separate from us. What, let me ask, could be the inducement to such a measure? With a vast power to the south and to the north pressing upon them, with no reciprocal interest, they would find themselves drawn more closely to the Union, supplying by their industry these powers, and finding an immense country to the East inhabited by their friends and relations, obeying the same laws, and taking from them many of the rich productions of the East, without an increase of expense. Besides, what has their local legislation to do with national affairs? What do we know of the legislation of Maine or New Hampshire, or of Georgia? Do not our judges expound the laws of Congress as well in those states as in Maryland or Virginia? Would not a judge in Oregon do his duty as well as a judge in Missouri? Does it matter where, or in what place, the laws are made? What is the appearance of things when Congress adjourns, the President retired to his farm, and his Secretaries gone to their homes? All local or state affairs the people of Oregon could transact for themselves, as well as the states on this shore; their obedience to the laws of the Union would be the same; the interest of the people on that side of the Rocky Mountains would be identified with the interest of the people of the whole Atlantic coast, in a stronger degree, in my opinion, than Vermont and Louisiana, and will continue as long.

Notwithstanding this, suppose there should be a separate government, and they become an independent people, is there any thing very shocking in this? Is it not in unison with our own principles to separate freely and peaceably, when the force of circumstances makes it manifestly necessary? And would it not be better to have our children there, than the Spaniard, Englishman, or the rough Russian? Surely, if we do not occupy it, some foreigner will, as so large, beautiful, and fertile a country, abounding in productions better in the rich

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markets of India and China than silver and gold, cannot be left untenanted. Moreover, the law of nations, which we respect, would go far to justify them in taking possession of it. Would we, in that case, wage war to recover it? if so, that war would cost much more than the occupation proposed by this bill. Would you abandon it? Then say so, and let the enterprize of your citizens choose the course. Many now go to Mexico and to Canada, where they get land for the asking: the inducement to Oregon would not be confined to that poor prospect of a piece of land.

Mr. Chairman, this river must be occupied; so noble a stream, watering with its branches a tract of country from the 42d to the 53d degree of north latitude, and from the Pacific Ocean a thousand miles in the interior, with a climate, though north of this city several degrees of latitude, yet as mild as this, cannot remain unoccupied. This country, too, if there is a spot on the face of the globe destined to feel less of the calamity of war than another, it is this place: this, I should think, would be another strong inducement for its settlement.

All the wars which have agitated the world, have been in, or had their rise in Europe—all the wars we have had, and perhaps will have for ages, can only be from Europe. All the defences we have planned, and are planning, is to secure ourselves against the wars of Europe—from all this, Oregon will be comparatively freed. If there is a man, whose religion, or whose judgment or feelings disapproves of war, then let him settle in Oregon, where himself, and his descendants for ages to come, will be unmolested by the din of arms. Russia, from the situation of her capital, her commanding interests, and the mass of her population, will remain a European power—she cannot disturb us at so distant a point. The coast of Asia is too distant, too wild and unimproved, to become the seat of Royalty; and should war arise with that power, Europe and the Atlantic must feel its effects. Should England be the enemy, the result would be the same—that territory is too distant by sea to enable them to fit out any thing like a heavy force: wherefore, the danger of molestation would be small. From the coast of China, we know there is no danger. The experience of many centuries of exemption from war, has taught her the wisdom of peace. She will not, cannot war with us. From Mexico, Peru, Colombia, and Chili, there will be little danger; as the products of the two countries are totally different, we cannot compete in the market; and they have no timber to become a naval power: from that quarter we are safe. If, however, the Republic should be plunged in war, it must be on the Atlantic shore, where it can defend itself; that coast would ask no protection. The whole shore of the ocean is almost a perpendicular rock, only approached through the mouths of the rivers, easily secured, and easily defended, which leaves all at ease within, tranquillity and peace.

There is, Mr. Chairman, another point of view in which this subject presents itself, still more important to us, and one which ought to engage the most serious attention of the Republic.

This river is the largest which empties itself into the Pacific Ocean on the whole coast of America, or on the coast of Asia, as far, at least, as China. It has soil and timber, to any extent, fine harbors, and much health. From this point, the whole Pacific ocean can be commanded; and is the only point on the globe, where a naval power can reach the East India possessions of our eternal enemy, Great Britain. It is well known to every member of the House, that through all her struggles with Napoleon, and amidst all the gigantic schemes and exhaustless resources of that great man, her trade to India remained untouched and secure. It is well known that he had planned a descent upon her East India possessions; but as he himself declared in his conversations with Mr. O'Meara, at St. Helena, a book all have seen,

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the truth of which, none doubt, that he was never able to accomplish it: because, on consultation with his ablest naval commanders, and on various calculations, he found that the fleet would be deficient, as he observed, in one month's supply of water. If, then, we secure the possession of Oregon, and avail ourselves of the fine harbors and ship timber which we know how to use, which fact, the English, at least, ought not to doubt, we take the strongest and surest security of Britain, for her future good behaviour. She will be very cautious how she evinces that wantonness and injustice, and utter disregard of the rights of this Republic, which led to the last war with her, when she knows that, in thirty or forty days, we can, at any time, strike a blow on her East India possessions, which, of all others, she would feel the most sensibly and sorely. This would be a better guarantee for our future peace, than her faith in the observance of treaties, or her impressions of justice. We should, too, obtain the entire control of that ocean, where we have, even now, annually, eight or ten millions of property. Mexico, Peru, Chili, and Colombia cannot, and Britain, in those seas, must forever remain too weak to cope with us. We will be in good ports at home; they have all the dangers of a voyage round a cape proverbial for its storms, and two oceans, making a distance of perhaps thirty thousand miles. If, in any future war, a ship should be taken from the enemy in that sea, instead of burning it, or suffering it to rot, as was done by the intrepid Porter, we would have a near and safe port to enter, where all prizes could be secured, and, by a court of admiralty, the property changed, which could be sold to the merchants of any, or all of the powers below, or even to the Russian. This, then, gives us the command of that ocean, from the Bay of Bengal, to Cape Horn, and to Behring's Straits, Kamtschatka and Ochotsk.

From this bill will result all these important considerations. We procure and protect the fur trade, worth to England, three millions of dollars a year. We engross the whale trade, a most valuable branch of commerce, so plenty on that coast, that Portlock, an English navigator, states, that in 1787, when in latitude 57° he saw the ocean covered with whales as far as the eye could see. We control the South Sea trade, as it is called—the trade in Seals, and in the islands of the Pacific. We must govern the Canton trade. All this rich commerce could be governed, if not engrossed, by capitalists at Oregon, making it the Tyre of America, to supply the whole coast below, and thus obtain the silver and gold of those rich countries on that coast, more valuable to us than the mines themselves; for the nation which works in iron, and labors in commerce, has always, and will forever, govern those who work in gold. Here is a way, then, to supply the market of Canton with all it wants, without a dollar in specie from the Republic. What flour, and cotton, and tobacco, is taken from the United States, by ships in that trade, on what they call indirect voyages, are first disposed of in Europe or the Mediterranean, for silver, opium, &c. and these are shipped to China, where the opium is better than silver. The ginseng of the Oregon, the fur of that river and that sea, with sandal wood, and other valuable productions of the islands, will purchase all we want, not only to supply our own wants, but to dispose of in Europe, and return the proceeds to our own country. Much can be taken to Oregon, and from thence, shipped to the governments below, or furnished to the merchants of Mexico, Guatemala, and others, as they may find it convenient to apply for them, by so short a voyage—from ten to twenty-two days.

The trade to Canton has never been properly regarded by us; when viewed in a proper light, it is of great value to the United States, and ought to be cherished, or, as sometimes happens, the best thing that can be done, is, to do nothing; and this is emphatically one of these

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cases. If proof of this were wanting, it would only be necessary to compare our commerce with Great Britain. Her East India Company, her South Sea Company, and other charters granted to monopolists, will, if persevered in, ruin their country, or soon rank them below the United States, or give employment to many tons of American shipping, to carry that which their own subjects cannot do.

I will, though, exhibit a slight view of this trade, and, when taken in conjunction with our trade in the South Sea, and the whale trade, all must admit its vast importance.

In the season 1804—5, there entered thirty-four vessels, carrying 10,159 tons. They had on board two millions nine hundred and two thousand dollars, in specie; in all other articles, two millions six hundred and fifty-three thousand eight hundred and eighteen dollars—making in all, a value of five millions five hundred and fifty-five thousand eight hundred and eighteen dollars; and exported that year 3,842,000 dollars. In 1805—6, there was forty-two ships, tonnage 12,480, having, in silver, 4,176,000 dollars, and in all other things, 1,150,000 dollars—total value 5,326,358; that year they exported 5,127,000 dollars. In the season 1806—7, there was thirty-seven ships, tonnage 11,268, having on board 2,895,000 dollars in specie, and in all other articles, 982,362 dollars—total value 3,877,362; they exported that year, 4,294,000. In 1807—8, there entered thirty-three ships, tonnage 8,803, 3,032,000 dollars in specie, and 908,090 dollars in all other articles, making a total value of 3,940,090 dollars; exporting 4,470,000. In 1808—9 entered eight ships, tonnage 2,215, specie, 70,000 dollars, all other articles, 409,850—making in all, 489,850; exporting 808,000. In 1809—10, there was thirty-seven ships, tonnage 12,512, specie 4,723,000 dollars, all other articles, 1,121,600 dollars: total, 5,744,600; exporting 5,715,000 dollars. In 1810—11, ships, sixteen, tonnage 4,748, 2,330,000 dollars specie, in produce 568,000 dollars: total value, 2,898,800, and exported 2,973,000 dollars. In 1811—12, ships, twenty-five, tonnage 7,406, specie 1,875,000, all other articles 1,257,810; total, 3,132,810; exporting 2,973,000 dollars. In 1812—13, there were eight ships, tonnage 1,816, 616,000 dollars in specie, and in other things 837,000, making in all, 1,453,000; they exported that season, 620,000 dollars. This year, there was more produce than specie taken to Canton, and less than half its value exported. In 1813—14, nine ships entered, tonnage 2,854. There was no specie taken out this season, but a value in articles of commerce, amounting to 451,500 dollars; exporting 572,000 dollars. This falling off, it is presumed, was owing to the war with England, which then existed. The season following, of 1814—15, there was not a ship or vessel of any kind in Canton, belonging to the United States, which it is presumed will never again be the case, should you pass this bill.

Immediately at the close of the late war, this trade revived in a high degree, and seems to be steadily approaching that point which should demand some care, and more justice than it has hitherto received; or why should merchandise from beyond the Cape of Good Hope pay twenty per cent. more than from Europe?

I will now, for the seven years following, examine this trade, so as to expose it more minutely, which I hope the committee will pardon, as I shall be as brief as possible.

In the season of 1815—16, there entered 30 ships, tonnage 10,208, specie 1,922,000 dollars, in other articles 605,500 dollars. This year there was shipped to the United States, 4,514,280 pounds of tea, 1,695 pounds of cassia, and 455,000 pieces of nankeens. There was sent to Europe by our ships 2,731,000 pounds of tea, 1,650 piculs of cassia, and 185,000 pieces of nankeens.

In the season 1816—17, there entered 38 ships, tonnage 13,096, 4,545,000 specie dollars, and produce amounting

to 1,064,600 dollars—total value 5,609,600 dollars; the exports of that year were 5,703,000 dollars. This year there was shipped to the United States, 6,074,100 pounds of tea, 660,000 pounds of cassia, and 1,434,000 pieces of nankeens. To Europe was sent 2,800,000 pounds of tea, 172,533 pounds of cassia, and 360,000 pieces of nankeens.

In the season of 1817—18, the number of vessels amounted to 39, tonnage 14,325, having \$5,601,000, in specie, on board; and 1,475,828, amounting to \$7,076,828; exporting this season, \$6,777,000; of the \$1,475,828 worth of produce taken to Canton this year, the sandal wood produced \$174,075; copper, of which there is vast abundance on the Western ocean, sold for \$69,528; some of the other items were 125,310 sea otter skins, 47,000 land otter, 75,335 beaver, 525 fox skins, 70,935 seal, 334 mink skins, 150 rabbit, 420 muskrat—making \$563,610: besides this, the ginseng, of which Oregon produces much, sold that season for \$144,000; opium, \$262,400, obtained, it is believed, in the Mediterranean, by the sale of produce. This season there was taken to the United States, 7,535,885 pounds of tea; of china ware 11,487*p.* more than paid for by the sea otter skins, or sandal wood, or the beaver, or seal skins, 200,836 pieces of silk, 1,228,000 of nankeens, 1,428,933*lbs.* of sugar. There was taken to Europe, 2,086,245*lbs.* of tea, \$22,600 of raw silk, 160,000 of sugar, 46,000 of sugar candy, 73,300 of cassia, 241,000 pieces of nankeen.

In the season 1818—19, there were 46 ships, 16,022 tonnage, \$7,614,000, specie, \$2,603,151 in produce, making a total of \$10,217,151, exporting \$9,057,933. The importation of fur for that year was 124,000 sea otter skins, 49,425 land otter, 70,065 beaver, 100,300 seal skins, 750 rabbit, 7,550 foxes, sea otter tails 10,136; all valued at \$362,296: besides this, there was in value in ginseng, \$77,770, in opium 528,500, and in sandal wood \$91,368, copper \$316,814.

In the season of 1819—20, there was 43 ships, 15,139 tons; with \$6,297,000, in specie; in all other articles, \$1,692,872, of which the furs, consisting of sea otter, beaver, seals, land otter, rabbit, and mink, amounted to \$245,101, the sandal wood to \$82,872, ginseng, \$38,000, and the sea otter tails to \$5,789. There was exported, \$8,747,988—to the United States, \$6,765,132; to Europe, \$1,690,285; to South America, \$292,571.

In 1820—21, there sailed and entered in Canton, 28 ships, 9,387 tonnage, \$2,995,000, specie; in all other articles, \$2,397,795—total, \$5,392,795. Exporting, \$4,715,696. The trade this year may be valued thus: sandal wood \$73,508, furs \$340,991, ginseng \$171,275, opium \$115,000, quicksilver \$295,075, copper \$33,540. The exports consisted of \$2,437,990, silks 1,702,770 pieces, nankeens 402,500, cassia 68,922; all other articles, \$163,514, making the total above stated. This year the goods shipped to Europe, amounted to \$1,109,114; that to the United States, \$3,462,582; for Peru, \$144,000.

In the season of 1821—22, there entered in Canton, 45 ships, tonnage 15,530; carrying specie \$5,125,000; in all other articles, \$3,067,768—total, \$8,192,768. Exporting \$7,563,644. This year there were taken to market, fished out of the Western ocean, 135,828 in sea otter skins, land otter, beaver, fox, seal chow chowskins; in all amounting, in these few articles, to the enormous sum of \$490,081; the ginseng amounted to \$309,610, opium 383,000, the sandal wood from the Sandwich isles, to the vast sum of \$268,220. The exports of this year were distributed as follows: To the United States \$6,016,218; to the continent of Europe, \$772,763; to South America, \$358,163; Batavia \$352,500; Sandwich Islands \$64,000; making the sum already stated. It is a prominent fact, which ought not to be forgotten, that this year the skins of seals, sea otter, and sandal-wood alone, sold for the astonishing sum of \$605,511.

It has not escaped the observation of all, that this trade declined towards the middle of the period here

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spoken of; this, all know, was owing to the war, and the embarrassed state of things immediately preceding it; that it has been gradually increasing, notwithstanding the duty on some of the articles pay a higher tax than similar fabrics from Europe.

The idea has been pretty generally spread abroad, that nothing is taken in the Canton market but gold and silver, ginseng, and furs. This I explained on a former occasion, that, owing to the bulk and low price of bread stuffs, &c. and their liability to spoil from so long a voyage, through a hot country, that they would not pay the expense of freight. But, from the mouth of this river, the voyage is short and safe, which will afford a good profit for flour, and all other articles the products of agriculture. Cotton, too, has been sold there for a good price; broken glass, leather, gin, brandy, and candles. What a prospect for the tanner! in a country abounding in timber, of oak, and spruce pine, affording bark of the best quality, as containing much of the tanning principle, with skins in inexhaustible abundance, from the plains below.

I have sought in vain for a correct statement as to the number of seamen annually employed in this trade, but can only find an imperfect account for the years 1819 to 1822 inclusive, making the number above 951 each year. It will be seen, likewise, that the shipments to South America are increasing, and will doubtless be profitable, and increase the tonnage employed in that branch of business.

If the House will indulge me a few minutes, I will now make some exposition of the whale trade, and the trade to the Western Ocean. For all I shall say, I have the documents in my hand, and if there is an error, it is, I know, in making the exposition less than the real fact; but I deem it prudent to present the least favorable view it is susceptible of. It is proper further to observe, that this part of the subject may be better understood, that the number of vessels here stated, regards the departure and arrivals each year; though, it is believed, that in some years there may be more at sea than in other years, which, of course, would not be noticed that year, which may, on the other hand, be counter-balanced by the arrival of a vessel which that year cleared; yet it is pretty accurate.

In the year 1819, there cleared from Boston, 8 ships, engaged in the whale fishery, and commerce of the Western Ocean, &c. The tonnage of these ships amounted to 2,171, navigated by 164 seamen. Their particular places of destination were Chili, Lima, Valparaiso, Sandwich Islands, Western coast, &c. New Bedford, twenty-eight ships, tonnage 7,379, seamen 552. Edgartown, fourteen ships, tonnage 3,908, seamen 281. Newport, one ship, tons 366, seamen 23. Providence, three ships, tons 520, seamen 27. New London, ships 4, tons 845, seamen 74. New York, one ship of 168 tons, and 21 seamen. There entered that year, 33 ships, 7,968 tons, and 557 seamen, making 118 ships, 20,428 tons, navigated by 2,199 seamen. In the year 1820, there cleared 103 ships, 25,118 tons, navigated by 2,063 seamen; and arrived 58 ships, 13,581 tons, and 946 seamen, making 161 ships, 38,649 tons, and 3,009 seamen.

In 1821 there sailed 162 ships, tonnage 41,550, navigated by 3192 seamen. There arrived that year, 53 ships, 12,908 tons, seamen not known, making 215 ships, tonnage 54,450. In 1822 there sailed, 161 ships; tonnage 43,515; seamen 3,174. There arrived 80 ships, tons 18,127; there is no note of the seamen who entered, save 180 in New York; making, that year, 241 ships, tons 61,612. In 1823, there sailed ninety-five ships, tons 25,079, and arrived 80 ships, tons 20,833; making 175 ships; seamen not ascertained. In the year 1817, it is to be remembered, there was brought to Nantucket, by 23 ships, tonnage 5,153, and 409 seamen, 5,771 barrels of whale oil; 15,401 barrels of Spermaceti; 6,813 of head matter: 19,444 of whale bone. In 1818,

brought by 21 ships 384 seamen, 5,492 tons, 13,426 barrels of whale oil; 10,496 Spermaceti; 4,378 head matter; 65,446 whale bone. In 1820, there were 21 ships, 5,249 tons, and 391 seamen, bringing 11,737 barrels of whale oil; 11,885 Spermaceti; 5,027 head matter; 59,794 whale bone. In the succeeding years it was much the same. One of the vessels arriving in 1823, reported a list of 36 ships then in the Western Ocean, though they did not know of any cargo except 35,200 barrels of whale oil.

I have the authority of a respectable newspaper for saying, that, within the period of three years, viz. in 1820, '21, and '22, there arrived at Nantucket, 2,101,292 gallons of 'permaceti oil; and, for the same three years, at New Bedford, 1,407,797 gallons, this being but one item in the trade. During these years there went to Canton, in furs and sandal wood, from hat coast and sea, including some fur likewise shipped from N. York, that which sold for the incredible amount of 1,494,397 dollars! There was exported to that sea, in that year, 17,544 dollars' worth of domestic fabrics, and 9,417 of foreign merchandise. To the Western coast, 113,746 domestic and 193,363 foreign merchandise. We have, from the year 1805 to 1822, inclusive, shipped to the Pacific, in domestic and foreign merchandise, 520,295 dollars; and, to the Western Coast, in the same articles, for the same period, 4,557,078 dollars; making 5,077,371 dollars; yet, by this trade we obtain the valuable furs, sold for such enormous amounts in China; our exports to that coast amounting, in twenty years, to 5,077,371 dollars.

What a wonderful profit must there be, when the furs alone, in the Canton market, for the season 1821, '22, sold for half a million of dollars! The exports for the year 1820, to the Western Coast, in articles the growth, produce, and manufacture, of the United States, only amounted to 41,068 dollars! consisting of 797 quintals of dried fish, 3,729 pounds of hams and bacon, hats, leather, boots, beer, spirits from molasses, nails, refined sugar, brass, gunpowder, tobacco 26 hogsheds; but the most important article seems to be, the different kinds of manufacture from wood; this item amounts to 983 dollars; hence, it is evident, that it is the most valuable commerce known to the United States, as it creates its own capital, and enriches by its labor, and the sale of nails, tobacco, leather, hats, and blue beads. For the year 1821, the exports to that coast amounted to 94,493 dollars, and, for 1822, they amounted to 54,799. The goods, wares, and merchandise, the growth, produce, and manufacture, of foreign countries, exported to that country or coast, amounted, in the year 1820, to 193,363 dollars; consisting of different sorts of wine, brandy, &c. tea, coffee, sugar, cassia, gunpowder, lead, shot, iron, black bottles, and leather. In 1821, the exports amounted to 282,505 dollars, in much the same articles, also including some China ware, silks, teas, &c. For 1822, the amount was 110,790 dollars. Great as this trade is; all our seaports do not participate in it equally: for, Nantucket alone, owns 83 of these ships.

Why should we not protect and cherish this trade? Was there ever a nation on earth which bought so much, with so little? The fisheries, which have occupied so large a space in our negotiations for many years, only yielded us, in the year 1816, the sum of 1,331,000 dollars, employing — tons of shipping; this also included — tons of shipping engaged in the whale trade.

Under this view of the subject, I think, Mr. Chairman, you will agree with me, that "our interests on the Pacific Ocean, are not so minute" as to be unworthy of investigation, as has been said in a recent negotiation, by a personage in no very subordinate station. This trade, yielding such vast sums upon the capital and labor employed; giving employment to 45,000 tons of shipping, and upwards of 3,000 seamen; ought to be looked to with care, and fostered with solicitude. Besides bringing us great wealth, it is the finest nursery for seamen in



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the world. An ordinary whaling voyage is from two to three years. I have it from authority that cannot be doubted, that ships have been absent for four or five years, and, in one instance, even seven years; it is this which makes the real seaman.

But, sir, why should we not have our own ships built on that sea, and fitted out from our own port on the Oregon? Why send ships of war from this coast, from Washington City, to cruise in the Pacific Ocean, when we can there build them, and keep on that coast a fleet, for that ocean?

Much has been said concerning the difficulty of establishing the post, and subsisting those who might embark in the enterprise. It is true, we will not, for a few years, find as much wealth and splendor as is found in the saloons and drawing rooms of this magnificent counterfeit of European royalty; neither would we find what is very common here, a heartless intercourse, and aping etiquette of miserable pretenders to the "monthly fashions, just from Europe."

First, As to subsistence. I think myself well justified, from the concurrent testimony of all travellers and voyagers, in stating, that the salmon of the Oregon river alone, would subsist fifty thousand men a year. The potato grows wild there, on which the natives feed, not only those who live on the river, but those of the neighboring nations. Portlock and Dixon say, and their testimony is strengthened by Messrs. Lewis and Clark, that the gooseberry is to be found there in abundance; so is the red and black currant, strawberries, mulberries, raspberries, onions, and peas. Portlock also states, that, high up that coast, a shrub is found, the leaves of which is so good a substitute for the tea of China, that he could hardly tell the difference. Moreover, wheat, and all kinds of grain, can be had in a few days from Mexico, at very reduced prices. Hogs, sheep, goats, black cattle of every description, can be had, with ease, and in abundance, in a short time, from California, or the Sandwich Islands. The difficulties to be overcome in a voyage or journey to that country, are ideal, and for some years unknown to the enterprising citizens of Missouri, who, I had almost said, were daily in the habit of planning and executing trips to Oregon and to Mexico, yielding a profit in furs, peltries, money, and mules, beyond any thing known to us. The journey is safe and easy, and requires, from Franklin, in Missouri, the space of fifty days, by their present slow mode of travelling, to perform the trip. So frequent are their journeys, that I should almost feel myself justified in saying, that there is a constant intercourse between Missouri, Mexico, and Oregon.

Much of the reluctance which is felt by gentlemen, arises from a recurrence to the difficulties experienced by Messrs. Lewis and Clark, when visiting that coast; their difficulties proceeded, not from the country, but from their entire want of knowledge—which is now possessed, gained by a residence among the Indian nations who inhabit the country near the Oregon mountains.

The course now travelled to pass those mountains, lies far to the south of that formerly travelled, and a journey can now be made without meeting any obstructions of a serious character. Much of this information has been imparted by Mr. Farnham and Mr. Crooks, gentlemen to whom I am much indebted for many interesting facts relative to this country, who have had an intimate knowledge, from having been there, engaged in the trade of that country with John Jacob Astor, who is well known for his skill, experience, and extensive knowledge in the fur trade, and is ready to vest in that pursuit, several hundred thousand dollars, fixing his establishment at the mouth of Oregon, so soon as this republic will extend to her citizens the same protection which even the Kings of Europe, particularly England, grant to their subjects. I am also informed, that other large capitalists in the Western country, and in Virginia, are

willing to embark in the same pursuit; among these may be named, Louis A. Tarascon, of Shippingport, Ken. known in Bordeaux and Philadelphia, as one of the most accomplished merchants; who has been among the first to open the trade from the Ohio to the West Indies, and built the first ship which descended that river, for that purpose, and whose commercial views have been useful, and deserve the most respectful attention of the government.

The great difficulties which Lewis and Clark met with, induced adventurers to search for a more practicable route, which was soon discovered, to the south of that pursued by these early travellers. Others went still further southwardly, and continued up the Yellowstone river, taking the fork of that river, called the Big Horn, pursuing it to its source, thence through the mountain, falling upon the waters of Lewis river, one of the principal branches of the Oregon. At this point the waters interlock; and present very few difficulties, as the whole chain of mountains differs from those known on the Atlantic shores, inasmuch as the mountains here are composed of one unbroken chain: there are composed of a number of detached hills, though large, and of great height from the base to the summit, resembling a chain of tumuli; through these you pass with ease and safety, so much so, that I have the most perfect confidence, that even now, a wagon, with its usual freight, could be taken from this capital to the mouth of Oregon.

Besides these passes, there is still another, which, though longer to the upper part of that river, is yet better, where even the feeble difficulties there encountered, are here almost annihilated.

This route, pursued by many now engaged in that trade, holds its course from Missouri, up the Kansas river, continuing some distance up the Republican fork of that river; then falling on to the river Platte, thence, entirely up that river to its source, where the Oregon, or Rocky Mountain, sinks into a bed of sand, without water or timber for the space of sixty miles smooth and level. On crossing the sandy plain, the traveller finds himself in a rich extensive country, in which heads the Rio del Norte, the Rio Colorado, of California, Rio Buenaventura, Timpanogos, Multnoma, on the head of Lewis' river.

It is worthy to remark, that at this point is to be found that portion of the civilized Indians who escaped the slaughter of the Spaniards when Montezuma was destroyed. This excellent people live there in all the peaceful abundance of a rich soil and good government. They have herds, flocks, till the soil, and manufacture various articles of cotton wool, and wood, and live in fine houses, some of stone, of the best workmanship; of this there is no doubt—some of their fabrics, such as counterpanes, have been sold in the markets of Missouri.

The course, taken from the neighborhood of these people, is near the Lake of Timpanogos, thence to the Multnoma, and with it to the Oregon, near its mouth; the other, to fall on the waters of Lewis' river, and with it, to its mouth, which is in truth the main branch of the Oregon.

Should capital be soon employed at the mouth of that river, there can be little doubt that all the beneficial results here anticipated, would soon ensue; the valley of the Mississippi would soon be supplied by this route, with all the luxuries, and all the rich productions of the Western ocean. One of the strongest of these supposed difficulties, is the want of navigation on the Missouri river, and a want of safety at all times in ascending and descending that river. This ceases to be an objection altogether—as I have been informed by General Jesup, that a boat invented on the Missouri river, (by General Atkinson,) and constructed and put into operation, by an order from his Department, can ascend and descend, or cross that river in any direction, with ease and with safety, the persons on board being free from danger of every kind. His representation, all know, is to be reli-

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ed upon, as it is plain and never exaggerated. From all the information to be had on this subject, the time taken from Franklin, in Missouri, to the mouth of the Oregon, by the head of the river Platte, is fifty days.

Again, should capital be fixed at that point, as it soon will be, Why not have a dock yard and a naval establishment, to construct and repair our fleet on that sea? Would it not also be proper for this government to negotiate with the republic of Mexico, or Guatemala, for the privilege of passing the isthmus? In this point of view, Pensacola is likely to become the greatest city in the south, and, perhaps, one of the greatest in this republic. The voyage is easy, and much shorter than any would suppose who had never considered it. From Oregon to the Gulf of Panama, is a voyage of 22 days; from thence, across the land, to the Bay of Mandinga, is three days; then to Pensacola, is a voyage of eight days; making a voyage from the mouth of Oregon to Pensacola, in thirty-three days. There is another course which may be pursued, making the trip shorter—it is, to leave Oregon for the Bay of Tehuantepec, a voyage of twenty days; thence, across, to the Rio Huasculco in three days; and in four more to Pensacola; in all twenty-seven days.

Is this not an object worthy to be secured? In the many treaties which we have of late been negotiating, in all of which, in my opinion, we have been much injured, would it not be right to secure this object to the South, that we may have some little benefit for immense injuries? Or, are our claims to Oregon, and our interests in the Western ocean, really so "minute," that they cannot be perceived?

I throw out these hints, as forming principles for our commerce and our country at large, to guide us in the better way; just principles may be looked to as guides, even when we cannot adhere to them as rules.

I shall, Mr. Chairman, close the few remarks I have to make, by an appeal to the House, to consider well our interests in the Western Ocean, on our Western Coast, and the trade to China and to India; and the ease with which it can be brought to Pensacola or down the Missouri. What is this commerce? Has it not enriched the world? Thousands of years have passed by, and, year after year, all the nations of the earth have, each year, sought the rich commerce of that country; all have enjoyed the riches of the East. This trade was sought by King Solomon, by Tyre, Sidon; this wealth found its way to Egypt, and, at last, to Rome, to France, Portugal, Spain, Holland, England, and, finally, to this Republic. How vast and incomprehensibly rich must be that country and commerce, which has never ceased, one day, from the highest point of Jewish splendor, to the instant I am speaking, to supply the whole globe with all the busy imagination of man can desire, for his ease, comfort, or enjoyment! Whilst we have so fair an opportunity offered, to participate so largely in all this wealth and enjoyment, if not to govern and direct the whole, can it be possible that doubts, on mere points of speculation, will weigh with the House, and cause us to lose forever, the brightest prospect ever presented to the eyes of a nation?

I will conclude my observations on this important subject, with one other remark, which I beg the House to bear in mind, and give it such weight as it deserves. The idea of extending our military frontier, or posts, to the mouth of that river, seems to have created alarm in the minds of some gentlemen; but, when it is well considered, all cause of fear will vanish. It is not so important as to the number of military posts, as it is, that they should be properly placed. I am thoroughly persuaded, that England governs the commercial world more by the advantageous positions she occupies in it, than by her physical strength or powerful marine. In addition to the strength which she derives from her insular position, which is as a bastion to the coast of Eu-

rope, she has Gibraltar and Malta, and other islands in the Mediterranean, which hold all Europe in check. On another side, she has a position in the West Indies, in Africa, in India, and the South Seas; all chosen with the same intent, and all in completion of her schemes; she wants nothing now to give her the entire control of all the commerce of the world, for ages to come, but a position on our Western Coast, which she will soon have, unless you pass this bill.

Mr. POINSETT, of South Carolina, offered an amendment to the bill, the effect of which would be to leave it discretionary with the President at what point on the Pacific the military post should be established, and supported his amendment by some remarks, the substance of which was understood to be, that the information in possession of the mover, as to the geographical and topographical advantages of the position at the mouth of the Oregon, was adverse to that just laid before the House by the gentleman from Virginia, (Mr. Floyd.) He was not very confident of the accuracy of either, and thought it best to leave the matter to the President, who was, or doubtless would be, in possession of the best intelligence which was to be had in the case.

On motion of Mr. TRACY, of N. Y. the day being somewhat advanced, the committee then rose.

Mr. COOK moved to discharge the committee of the whole on the state of the Union from the farther consideration of this bill, with a view to its reference to the committee to whom so much of the President's message as refers to this subject had already been committed.—This course appeared to him to be proper in itself, and, particularly so, as there were manifest defects in the bill, which made it advisable that it should undergo revision by a committee.

Mr. FLOYD said, he was not at all anxious about the course this bill might take; but he could not see any necessity for the reference of it which was now proposed, especially as the present committee was composed of a majority of the persons who were upon the committee by which, at the last session, this bill had been matured. The President, it was true, had recommended the occupation of that territory in a military point of view. This bill contemplated that object, indeed; but, in addition, it proposed to give power to the President to erect the settlement into a territorial government whenever he may think proper. There must be at this settlement, besides traders, many shipwrights, blacksmiths, and other artisans, &c.; and he stated, on the authority of General Hector, that, in the last season, there were on the waters of the Missouri sixteen hundred persons engaged in the fur trade, who could not go over to the Columbia, because they would have been unprotected, besides having high duties to pay, &c. The bill contained but two features—the one was the establishment of a military post, and the other was an authority to the President to establish a territorial government whenever he might judge it expedient. He appealed to the American feeling of every gentleman whether it was proper to place under military law or the caprice of the commander of a post of two hundred troops, the number of persons who would belong to such a civil settlement. He could not, for his own part, think of such a thing for a moment. The persons there would be chiefly engaged in hunting and fishing, and he thought it was just that they should have the blessings of civil government as soon as their circumstances would admit of it. He was, therefore, opposed to the reference of the bill to a committee, as proposed.

Mr. COOK said, that this bill proposed certainly a very important measure. Besides the establishment of a civil colonial government on the coast of the Pacific Ocean, it proposed the giving grants of land to settlers, which were calculated to delude the people of this country, enterprising as they are—to produce upon them an impression that the country in question is adapt-

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ed to the habits and constitutions of our citizens—to delude from their present peaceful abodes a considerable population. Before we adopt a measure of this kind, he said, we ought to have some satisfactory information, upon proper responsibility, as to the character of the soil, climate, &c. of the country. Before any settlement was made there, the country ought to be explored by proper topographical engineers, &c. The proposed undertaking was one of great importance, and the subject was worthy of consideration. He wished to place the whole matter before the committee raised on that part of the President's message which relates to this subject, to enable them to digest such measures as might appear proper to enable the House to act knowingly and deliberately on this subject. At present they were leaping entirely in the dark: for one, he confessed that he was; and he presumed a large portion of the House were in the same situation. He wished to have information on this subject which could be relied upon, and not to establish a grand system, for such this was, without first exploring their way, and ascertaining whether that act would not have the effect to delude many of our citizens from their present successful pursuits, to a vain search after imaginary improvement of their condition.

Mr. TRIMBLE, of Kentucky, felt some regret that the motion of the gentleman from Illinois had been made. He did not see the necessity for it even to the attainment of the mover's own object, and there was, in the mean while, a weighty reason why the House should act upon the bill at the present session. The bill had, as had been observed, two leading features—first, the establishment of a military post, and, secondly, the establishment of a territorial government at such time as the President shall judge it to be proper. The object of the gentleman from Illinois would be fully answered by striking out the latter feature, to which alone his objections seemed to apply; for, certainly, when he talked of sending topographical engineers to survey the country, he did not mean to turn those gentlemen out defenceless among savages: he would surely send a military force of some description to accompany and protect them. But it was needful that the House should act upon the subject, and for this reason: By the terms of the British treaty, England and the United States are to trade in common throughout that country; and the treaty stipulates that the rights possessed by each at the time of the treaty, are to remain as they then were for fourteen years. Now, it was well known that an agent of the American Government had gone round to Astoria, the settlement at the mouth of the river Oregon, immediately after the conclusion of peace, and demanded that the British flag should be lowered and the American flag hoisted, as a signal of the possession of that part of the coast. Well, said Mr. T., the lion accordingly came down and the eagle went up; but, no sooner did the American agent turn his back, than down went the eagle, and up went the lion again. Under such circumstances, we made the agreement contained in the commercial treaty; and, if we shall leave the territory in possession of Great Britain until the fourteen years shall run out, at the end of that time it will be hers by right of possession, and she may expel our traders, &c. The possession which may now be obtained and secured by a small military force, say of two hundred men, may not, after that time, be obtained by a much larger force, and at a much greater expense. He was, therefore, opposed to the recommitment of the bill. Whilst up, he begged leave to return his thanks, those of the people whom he represented, and, he believed, of a great portion of the American people, to the gentleman from Virginia, (Mr. Floyd,) who had so long, and with so much assiduity, labored to collect and present facts for the information and guidance of the House in a matter of so great national importance as that which was now before it, and which he had at successive sessions brought forward.

The question was then put on Mr. COOK'S motion to recommit the bill, and lost by a large majority.

And then the House adjourned.

IN SENATE.—TUESDAY, DEC. 21, 1824.

#### GRATITUDE TO LAFAYETTE.

The Senate then, according to the order of the day, took up the bill making provision for General LAFAYETTE; and, no amendment being proposed thereto, the question was about to be put on ordering the bill to be read a third time—

Mr. MACON rose. It was with painful reluctance, he said, that he felt himself obliged to oppose his voice to the passage of this bill. He admitted, to the full extent claimed for them, the great and meritorious services of General Lafayette, and he did not object to the precise sum which this bill proposed to award him; but he objected to the bill on this ground: he considered General Lafayette, to all intents and purposes, as having been, during our Revolution, a son, adopted into the family, taken into the household, and placed, in every respect, on the same footing with the other sons of the same family. To treat him as others were treated, was all, in this view of his relation to us, that could be required, and this had been done. That General Lafayette made great sacrifices, and spent much of his money in the service of this country, (said Mr. M.) I as firmly believe as I do any other thing under the sun: I have no doubt that every faculty of his mind and body were exerted in the Revolutionary war, in defence of this country; but this was equally the case with all the sons of the family. Many native Americans spent their all, made great sacrifices, and devoted their lives in the same cause. This was the ground of his objection to this bill, which, he repeated, it was as disagreeable to him to state as it could be to the Senate to hear. He did not mean to take up the time of the Senate in debate upon the principle of the bill, or to move any amendment to it. He admitted that, when such things were done, they should be done with a free hand. It was to the principle of the bill, therefore, and not to the sum proposed to be given by it, that he objected. With regard to the details of the bill, however, he was rather of the opinion that it would have been better to have given so much money, which we have in the Treasury, than to have given stock to the amount.

Mr. BROWN, of Ohio, said that this bill purported to give a compensation to General Lafayette for services rendered. He should like to know what evidence had induced the committee to suppose that the amount proposed was the proper amount of compensation. He should like to know how far the proposed appropriation was grounded on claims for services or for expenditure. He should, indeed, like to see the phraseology of the bill changed. He should like to have the bill recommitment, also, for another and a peculiar reason. As it proposed to raise money by a loan, he doubted whether that provision of the bill was not invading the peculiar privilege of the House of Representatives. Under the influence of these considerations, he moved to recommit the bill.

Mr. HAYNE, of South Carolina, said he had entertained the hope that this bill would have given rise to no discussion; and if no other objection had been made to it than that of his friend (Mr. Maccon) who was opposed upon principle, to making an appropriation, in any case, or under any circumstances, by way of compensation for losses and services in the public cause, he did not know that he should now have risen. But the objection of the gentleman from Ohio made it his duty to submit, as briefly as possible, his views of this question. He trusted, he said, that he should be able to satisfy the Senate, and to satisfy even the scruples of the gentle-



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man himself, that there was no occasion at this time to re-commit the bill. The objection of his friend on his right (Mr. Macon) went to the root of the bill; for, Mr. H. said, he understood that gentleman to say that, though an individual might have spent his substance in the service of his country, and put his hand into his pocket and paid out money for its use, that money should not be refunded to him by the government. All this, said Mr. H. I shall be able to shew that General Lafayette has done, and that the adoption of the measure now proposed will be not only an act of justice to him, but a duty which we owe to ourselves. Mr. H. said he held in his hands documents which he had not intended to submit to the Senate, because he had already submitted them very generally to the private inspection of the members; but, called upon, as he now was, he felt it to be his duty to present them publicly to the Senate. Mr. H. then submitted a statement, founded on a document which had been received from France by a member of the Senate, from which it appeared that, when General Lafayette embarked for America, in 1777, he possessed an income of 146,000 francs, about \$28,700—an income, which, it is well known, had been reduced by his losses and sacrifices in the cause of liberty throughout the world, to a very small sum.

It also appeared, from the same document, that, during six years, from 1777 to 1783, the General had expended in the American service, 700,000 francs, equal to 140,000 dollars. Mr. H. adverted to further sacrifices which the General had made in the cause of Liberty, as established by this document; but the only fact in it to which he wished particularly to draw the attention of the Senate, was, that he sacrificed, more than forty years ago, one hundred and forty thousand dollars of his private fortune in the service of this country. And how was this sacrifice made? Under what circumstances? Was he one of our own citizens—one of those whose lives and fortunes were necessarily exposed during the vicissitudes of a contest for the right of self-government? No, sir, said Mr. H. no such thing. If he had been a native American, and had lost his whole estate by the war, he would have incurred a misfortune to which all his fellow citizens were liable in common with himself. But he was in the enjoyment of rank and fortune in his own country, cheered by the smiles of his Sovereign, and rich in the treasures of domestic joy. And yet he tore himself away from his country and his home, to fight the battles of freedom in a foreign land, and to make common cause with a people to whom he owed no duty—a people then engaged in a contest considered almost hopeless. Nor was he satisfied with the devotion of his personal services. He equipped and armed a regiment at his own proper charge, and came here with a vessel freighted with arms and munitions of war, which he distributed gratuitously among your people. And it is a matter of record on the pages of your history, that he put shoes on the feet of your bare-foot and suffering soldiery. For these services he asked no recompense—he received none. He spent his fortune for you; he shed his blood for you; and without acquiring anything but a claim upon your gratitude, he impoverished himself. And what, in recompense, has this government done for him? It was not until the year 1794, that they gave to him the full pay, without interest, which he was entitled to have received twelve or fourteen years before. Did they then attempt to remunerate him for the service, other than military, which the gallant General had rendered to the country? No, sir. But, if an American citizen had put his hand into his pocket, equipped a regiment for the service of his country, clothed its nakedness, and put shoes upon their bleeding feet, would he not have been entitled to compensation for such expenditure? Sir, if we were to resort to a calculation of pounds, shillings, and pence; if we were to draw up an account current with Gen. Lafayette the balance in

his favor would far exceed the amount which by this bill it is proposed to appropriate. But this, Mr. H. said, was not the ground on which he was disposed to rest the measure. He would appeal to higher and more generous considerations. It is not that an account is to be settled, but a debt of gratitude is to be acknowledged—a debt which can never be discharged.

Mr. H. stated that there was an incident in the life of Gen. Lafayette, which was explained by the documents which he held in his hand, and which presented his conduct in such a delightful point of view, that he could not refrain from bringing it to the view of the Senate, though he should not found upon it any claim for remuneration for the sacrifices which the General had incurred on the occasion alluded to. It would be recollected that, in March, 1803, Congress made a grant of 11,520 acres of land to Gen. Lafayette. In the year following, he was authorized to locate his warrant on any vacant land in the territory of Orleans; and, on the 7th April, 1806, his agent in this country did locate a tract of 1000 acres vacant land adjoining the city of New Orleans. On the 3d March, 1807, Congress, without adverting to this location in behalf of the General, and indeed, wholly unconscious of the fact that it had been made, granted to the Corporation of the city of New Orleans a space of six hundred yards around the fortifications of the city, including a valuable portion of the very land which had been previously entered by the General. He was immediately informed of the fact; it was stated to him that his right to this land was unquestionable, and Mr. H. held in his hand a statement made by an eminent lawyer and jurist, now a member of the other House, showing that a legal opinion was forwarded, assuring the General that, in a contest with the city of New Orleans, he must succeed. Another document, which Mr. HAYNE had obtained from a different source, stated that the value of the land had even then been discovered, and that \$50,000 could have been obtained for the General's title to it. And what was the conduct of Lafayette, on being informed of these facts? He promptly, and without hesitation, communicated to his agent "that he would not consent ever to inquire into the validity of his title; that he could not think of entering into litigation with any public body in the United States; that the property had been gratuitously bestowed upon him by the United States, and it was with them to say what had been given;" and he accompanied these declarations by a positive direction to his agent to relinquish his entry and to make a location elsewhere. This has been done, and the certificate from the Land Office proves, that the land substituted for that which has been lost, is of very inconsiderable value. General Lafayette, however, did not stop here. He had been induced to dispose of a part of his interest in this land, to an Irish baronet, Sir Josiah Coghlin. His contract with this gentleman created, of course, much embarrassment to him; but the General only considered that it might also embarrass the Government of the United States. He made an appeal to that gentleman, who, with a liberality worthy of all praise, agreed to relinquish his claims to the land in question, and accepted a claim on other lands in satisfaction for them. Lafayette stopped not even here: he was not satisfied while any thing remained to be done. I have myself, said Mr. H. seen and examined on file, in the Land Office, this deed of relinquishment, deposited there by General Lafayette, himself, to secure the government from all future difficulty. It only remains for me, said Mr. H. to add, that, on a portion of the land thus generously relinquished, now stands a valuable part of the city of New Orleans, valued by gentlemen well acquainted with it, (according to estimates now before him) at from four to five hundred thousand dollars.

It is perfectly immaterial, said Mr. H. to inquire, whether some legal difficulty might not have existed in establishing the General's title. Nothing but a judicial

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investigation could have settled the rights of the parties; and, as the General has relinquished his claim, and has never, at any time, claimed indemnity, that investigation would now be useless. But, the point on which he delighted to dwell, was the magnanimity, the refinement of feeling, the noble delicacy of sentiment, which prompted the General at once to abandon his claims, to refuse even to inquire into them, and, wholly regardless of his own interests, to look only to the interests of our country.

But there are still grounds almost as strong as its equity and justice, said Mr. H. upon which this claim may be placed. According even to precedent, if precedents were consulted in such a case, the government would be bound to recompense the services of Lafayette. Do gentlemen doubt upon this point, I could refer to numerous instances of legislation upon the same principles on which this bill depends. Mr. H. here referred to several: to the act making compensation for the "sacrifices and services" of Baron Steuben; to that which appropriates, in the language of this bill, "an entire township of land" for a recompense to Arnold Henry Dohrman, for similar services; to the act making provision for the daughters of Count De Grasse; and to that providing for the widow of Alexander Hamilton.

But (Mr. H. said,) he would not rely upon precedent for a justification of this measure. When the government of a nation consults the dictates of justice, and obeys the impulse of noble sentiments, it does what contributes to the glory and interest of the people. Neither was there any danger to be apprehended on the score of precedent, from the passage of this bill. Can this bill, said he, ever be drawn into precedent? Can such a case as Lafayette's ever again occur? Can the nation be born again? Can it assume a second childhood? Can it ever be reduced to a state of such poverty as to require similar services? And, if this nation could be shorn of its power; be reduced to extreme distress by a second struggle for its independence; and, in the winter of its fortunes should be anxiously looking for succor, in arms, in men, and in money; and, at such a crisis, a foreign nobleman, bound by no ties to us, should make a crusade in our behalf; embark himself and his fortunes in our cause; pour forth his treasures, shed his blood in our defence; and, whilst the scale of our destiny is in equipoise, throw himself into the balance; would you consider the example which you will set by this bill, as one which you ought not, in such a case, to follow? No, sir: the case before us is one of its own kind; it can never happen again; and if it could, the possibility of such a recurrence ought to constitute no objection to the proposed measure.

As to the objection which had been urged by the honorable gentleman from Ohio, on the details of the bill, Mr. H. would only observe, that it was impossible, in a measure of this nature, to meet the views of every gentleman. The committee had found that, while great unanimity prevailed among the members as to the thing to be done, much difference of opinion existed as to the best manner of doing it. He could only conjure gentlemen, therefore, who concurred in the principle, to come prepared to surrender their peculiar views in relation to the details. Some gentlemen prefer a grant of money; others stock; and others land. The committee had taken great pains to give to their propositions a form which should be, as far as possible, acceptable to all. Stock was preferred to money, because, while it was equal in value, and was always convertible into money, even at a premium, it would furnish a secure and certain income, which would render the veteran comfortable in the evening of his days, and smooth his path to the grave; and, being the last of our debts to be redeemed, would remain upon record as a standing monument of the gratitude of a free people. The donation of land

had been introduced, partly from a hope that it might induce the settlement of the beloved family in our country. It would be a rich provision for the grand children of Lafayette. It was thought, moreover, it would add to the grace of the measure. Without being over much disposed to consult the opinions of Europe, it was important, as to its aspect abroad, that Congress should act upon this subject not only liberally, but gracefully. A thing of this sort, he might be allowed to add, to be well done, should be promptly done, and with unanimity. He intreated of gentlemen, therefore, who were favorable to the principle of the bill, to yield up the objections which they might feel to any part of the details, assuring them that much pains had been taken to adapt them to the prevailing sentiment of the members.

There is still another consideration, which had influence on the minds of the committee, and which Mr. HAYNE considered as not the least important connected with this subject. It is, that the provision to be made, should not only be worthy of the distinguished person for whom it is intended, but that it should be worthy of the character of the nation—worthy of the American people. National character is national wealth; it gives a tone to the public sentiment and feeling, which add strength and energy to the country. Mr. H. was certainly not disposed to look abroad for a rule of conduct. He would not consult the mistaken opinion of foreign nations, when we had any great duty to perform. And yet it was highly desirable that we should always so act as to command the respect of the world. Now, what would be thought of us in Europe, if, after all that has passed, we should fail to make a generous and liberal provision for our venerable guest? We have, under circumstances calculated to give to the event great éclat, invited him to our shores. We have received him with the utmost enthusiasm. The people have every where greeted him in the warmest terms of gratitude and affection. The attention of the civilized world has been drawn to the event, as one even of national importance. It is unfortunately too well known that the object of our affectionate attachment has spent his fortune in the service of mankind, and that we ourselves have received a large portion of the wealth which he has never hesitated freely to surrender in the holy cause of freedom. Now what will be thought of us in Europe, and, what is much more important, how will we deserve to be thought of, if we send back our venerable guest without any more substantial proof of our gratitude, than vague expressions of regard? We will be accused (and he knew not how it could be said *unjustly*) of pretending to sentiments which we did not feel, and with paying substantial services with unmeaning professions of esteem. By bringing Lafayette to the United States, we place him in a new and extraordinary situation in society. We have connected him with our history. You have made him a spectacle for the world to gaze on. He cannot go back to France and become the private citizen he was when he left it. You have, by the universal homage of your hearts and tongues, made his house a shrine, to which every pilgrim of liberty, from every quarter of the world, will repair. At least let him not, after this, want the means of giving welcome to the Americans who, whenever they visit the shores of France, will repair, in crowds, to his hospitable mansion, to testify their veneration to the illustrious compatriot of their fathers. Lafayette will be a connecting link between the old world and the new. By your voluntary act you have placed him in this extraordinary situation; and, if, after all that has been done and said, we permit him to return home, without passing the bill on your table, we must suffer a loss of reputation at home and abroad, which time cannot repair. Mr. Hayne concluded, by regretting that he had been compelled to say even thus much on the subject. He knew that in this House, as in the

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nation, there existed but one feeling of gratitude and affection for Lafayette. He knew that the bill would pass with more than usual unanimity, but he considered gentlemen, who had scruples on the score of precedent, or who objected to the details of the plan, as entitled to the explanations, which he had attempted to give, of the views and opinions of the committee.

Mr. MACON rose to disclaim the belief that Gen. Lafayette had ever furnished any document, or made to any person any intimation whatever, on the subject of the measure now before the Senate. As for himself, Mr. M. said, he wished it to be understood that, in opposing this bill, he discharged what was to him a painful duty. His objection was not to the details, but to the principle of the bill, and the arguments of the gentleman had not satisfied him that the objection was not well founded. Not that he had any doubt of the truth of the statements which had been made by the gentleman from South Carolina. With respect to Europe, Mr. M. said that he had no doubt that all the respect which had been shown to General Lafayette here, was unpleasant to the rulers of that country. On this side of the water, all were glad to see him; even the Tories who were yet living would be glad to see him. Among a nation of strangers to his person, General Lafayette could go no where in this country without meeting with friends. No hand, in any part of this country, touches his but he may feel the heart's blood beat in its fingers. Mr. M. said he should regret it, if the South, when he goes there, should be behind any other part of the Union in their demonstrations of regard for this distinguished man. He did not believe they would be. Wherever he moves, among the mountains, or on the plains, he receives a heartfelt welcome. This, Mr. M. said, would sufficiently satisfy Europe, if any doubt remained on that point, what is the opinion which this country entertains of the services of Lafayette.

Mr. BROWN said, that, in the suggestion which he had made about the creation of the stock, &c. it had been no part of his intention to embarrass this bill. Being assured, by some of the Senators, for whose opinion he had very great deference, that the bill did not interfere with the prerogatives of the House of Representatives, to allow of a direct vote on its merits, he withdrew the motion for its recommitment.

The bill was then ordered to be engrossed for a third reading.

Mr. SMITH, of Maryland, entirely according in the suggestion of the gentleman from South Carolina, that whatever was done on this subject, if done, ought to be done quickly, moved that the bill should have its third reading this day.

The engrossed bill making provision for General Lafayette was accordingly read a third time: and the question being stated on its passage—

Mr. NOBLE, of Indiana, professing a due sense of the merits and claims of General Lafayette, said, that, nevertheless, to a bill shaped as this was, he could not give his sanction. If, for opposing it, the nation, or his constituents, thought proper to condemn him, he was perfectly willing to abide their verdict. To show that he was so, he asked for the yeas and nays on the question of the passage of this bill.

The yeas and nays were ordered accordingly, and were taken as follows:

YEAS.—Messrs. Barbour, Bouigny, Branch, Chandler, Clayton, Dickerson, Eaton, Jackson, Johnson, of Ky. Johnston, of Lou. Kelly, King, of Alab. King, of N. Y. Knight, Lanman, Lloyd, of Mass. Lloyd, of Maryland, Edwards, Elliott, Findlay, Gaillard, Hayne, Holmes, of Maine, Holmes, of Miss. Lowrie, McLean, Mills, Palmer, Parrott, Seymour, Smith, Talbot, Taylor, Thomas, Van Buren, Van Dyke, Williams.

NAYS.—Messrs. Barton, Bell, Brown, Cobb, Macon, Noble, Ruggles.

So the bill was passed and sent to the House of Representatives for concurrence.

Mr. BARBOUR submitted the following, which was taken up and agreed to.

“Resolved, That the President of the United States be requested to cause to be communicated to the Senate, such information as he may possess (and which may be safely communicated) relative to the piracies referred to in his Message, and the means heretofore adopted by the Executive for their suppression; and that the President be also requested to state the additional means necessary and expedient to be entrusted to the Executive for the suppression of the same.”

After consideration of Executive business,  
The Senate adjourned.

#### HOUSE OF REPRESENTATIVES—SAME DAY.

Mr. RANDOLPH, from the Committee on the Services and Sacrifices of General Lafayette, reported a bill “concerning General Lafayette;” which was twice read and made the order of the day for to-day. [This bill corresponds with the bill yesterday reported in the Senate on the same subject, except that, instead of 200,000 dollars in stock of the United States, it proposes to give him the same amount in money, with the addition proposed by the Senate’s bill, of an entire township of land.]

After some reports of committees were made, and the usual morning business disposed of—

Mr. RANDOLPH moved that the orders of the day be dispensed with, in order to take up the bill concerning General Lafayette. Mr. BEECHER hoped the House would not consent to do so—but, the question not admitting debate, it was put, and carried by a large majority.

The House accordingly went into committee of the whole on that bill, Mr. MARKLEY in the chair; and the bill having been read,

Mr. CAMPBELL, of Ohio, rose, and said, that it might appear uncourteous in any gentleman to oppose the passage of a bill having such an object as that now before the committee; yet, under present circumstances, brought in as that bill had been, suddenly upon the House, and called, as gentlemen were, to act upon it, without the opportunity of consultation, or a moment’s reflection, he felt it to be his duty to oppose its farther progress. This might, perhaps, be considered as his reproach; but he felt it to be his duty, and he must fearlessly discharge it. He could have wished that the gentleman who introduced the bill had cultivated a little more of the virtue patience. He did expect that, in presenting such a bill to this House, the merits and claims of the individual for whose benefit it was intended would have been stated, and the reasons which had induced the committee to fix upon this amount of compensation would have been disclosed. He was far from being insensible to the merits of that distinguished individual; and if, upon a deliberate statement of all the facts of his case, he should be convinced that his claims, even to such a large amount of remuneration, were founded in justice, he would go as far as any member of the House in allowing them, and in voting an appropriation. Whatever might be thought of his present conduct, Mr. C. declared that he was neither insensible to the services of General Lafayette, nor ungrateful for them; but he disapproved of the manner in which the bill had been attempted to be hurried through the House; and, though he might not succeed in preventing its passage, he should certainly, in this public manner, enter, for one, his protest against it.

Mr. GAZLAY, of Ohio, said, that he, too, felt it to be his duty to protest, in common with his colleagues, against the passage of the bill, at least in its present form. No member of that House could be ignorant of the num-

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titude of claims which, for these ten years past, had been continually presented to its notice for pensions for revolutionary services. The soldier of the Revolution, and he would add the American soldier, had been again and again at their door, asking compensation for services and sacrifices in the cause of his country. Was it sufficient that he should merely mention his claim? No—he must state and explain the grounds on which it was founded. Was it enough that he should do this once? No—he had to do it again and again—he must do it twenty times over—there was no eye to pity him, no hand to relieve him. After waiting on this House for years, he often had to go away at last without reward, because he could not explain and prove the precise amount and extent of his services. Now, sir, said Mr. G. what I would not give to the poorest American soldier, I would not give to a king upon his throne, should he ask it of me. The gentlemen who have the charge of this bill have pursued the wrong course in thus hastening the measure. There was another course which would better serve their object—which would unite all hearts and all hands: let the case be soberly and candidly set before the House: let the facts be explained—give gentlemen time to reflect and to deliberate, and he did not doubt they would do what was right in this matter. But, to the bill as now pressed upon the House, he could by no means consent, and he should therefore move to postpone the further consideration of it till Monday next.

The question being taken on the motion to postpone, was lost—ayes 75, noes 94.

Mr. STERLING, of Connecticut, then moved to amend the bill by striking out the second section, (which grants a section of land,) but the motion was lost by a considerable majority, only fifty-eight members rising in its favor.

Mr. VANCE, of Ohio, then moved to reduce the sum in the bill to \$150,000: but this motion was negatived by a still larger majority; when

Mr. GAZLAY moved to reduce the amount to 100,000 dollars, on which question he demanded the Yeas and Nays, which were ordered.

Mr. TRACY, of New York, then rose, and observed, that it must now be evident to all, that there existed in the House a difference of opinion as to the form of the measure proposed by the bill. To the measure itself, he was persuaded, no gentleman on that floor was opposed, and he presumed that the friends of the bill, as reported, would not think, under such circumstances, of pressing the bill through the House while the minds of members were in a state so unprepared to act with unison upon the subject. He confessed, that to himself it had appeared somewhat extraordinary, that a measure of this kind had been introduced and pressed with so much precipitancy. For his own part, he would not say that he was either in favor of the bill or opposed to it in its present form. He had deputed to no committee the right of graduating his feelings on this subject, nor would this House submit to have the measure of its gratitude dictated to it by any committee. It must have time to think and to act for itself. Such time had not been given. He would not say the amount was too large—others might think it was, and others, again, might consider it too small: opportunity must be allowed to gentlemen to express their views. No committee could gauge in a moment the feelings and sentiments of the House on such a subject, and he was opposed to such precipitate legislation. Our judgment, said he, is to be consulted as well as our feelings—and, hoping that the friends of the bill would themselves be sensible of the impropriety of attempting thus to hurry it through the House, he should move to lay the bill upon the table.

The question was taken on Mr. TRACY's motion, which was carried in the affirmative—ayes 93, noes 84.

So the bill was laid upon the table.

## SETTLEMENT OF THE NORTHWEST COAST.

On motion of Mr. FLOYD, of Virginia, the House went again into committee of the whole on the bill "for occupying the mouth of Columbia river," Mr. A. STEVENSON in the chair.

The amendment offered yesterday by Mr. POINSETT, to insert, after the clause which empowers the President "to erect a fort on the Oregon river, in the region of tide water," the following, viz: "or at such other point as, after an accurate survey of the coast and adjoining country, shall be found most advantageous for the establishment of a military post," was again read, and adopted; when the committee rose, and reported the bill as amended.

In the House,

Mr. BUCHANAN moved to strike out the 4th section, which is as follows: "That the President be, and he is hereby, directed to open a port of entry within the said territory, whenever he shall deem the public good may require it, and shall appoint such officers as may be necessary for the same; after which, the revenue laws of the United States shall extend to, and be in full force in said territory;" to which, (though on all other grounds highly approving it,) he objected, as interfering with the treaty with Great Britain. By that treaty, a free and open trade is guaranteed, in common, to both powers, for a certain term of years, which is diametrically in opposition to the establishment of a port of entry, and the consequent demand of duties from British traders to the Oregon.

Mr. GAZLAY thought that, as the treaty was the supreme law of the land, the establishment of a port of entry would only cause duties to be collected from other powers, the treaty stipulation protecting the trade of Great Britain from those duties.

Mr. FLOYD explained. The gentleman would perceive, if he looked once more at the section, that the establishment of a port of entry was only to take place, when the President shall "deem that the public good may require it." It did not interfere with the enjoyment of an equal trade by both parties, during the period stipulated by the treaty, but was intended to put our citizens, as early as possible, on an advantageous footing for the prosecution of commercial enterprise.

Mr. TAYLOR, of N. Y. then rose, and moved to amend the bill by striking out the whole of the 5th section, [which empowers the President to appoint a Governor, Judges, &c. for the territory, and defines their powers, emoluments, &c.] He approved of that part of the bill which provides for the establishment of a military post, but he thought that the erecting of a territorial government was matter of high legislation, which the House should not put out of their own hands, without special and urgent reason. He saw no such reason in this case. A territorial government would not be wanted on the river Oregon for many years to come, and would be attended, at present, only with unnecessary expense.

Mr. SMYTH, of Virginia, addressed the chair, and said, that he had intended to offer some amendments to the bill, which, that his object might be understood, he would now read to the committee. [These were to strike out all the sections except the second and last, and to amend the second, so as to authorize the President to occupy "the territory of the United States on the Northwest coast of America," without giving it a name as one of the territories of the United States.] It might, he said, be expected that he should explain why it was, that he, though chairman of the committee on that part of the President's message which relates to this subject, had not convened the committee. He thought it due to his friend and colleague, (Mr. Floyd) who certainly would have been appointed chairman had he been present, who had, with so much industry and ability, inves-

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ligated the subject, that he should take the lead in bringing it before the House, and that it should be decided on his bill and report, already in possession of the House. I have, (said Mr. S.) some remarks to make which may be now properly made, on the motion to strike out the 5th section of the bill. My colleague has shown the expediency of establishing a military post; but I differ with the gentleman from Kentucky, (Mr. Trimble) as to the expediency of establishing a post at the mouth of Columbia river. The surrender of the post at that place, to our agent, at the close of the war, could not affect the right of either nation. The surrender was made in compliance with a stipulation of the treaty of peace, that all places taken by either party during the war, should be given up; but it left the question of right to the territory undecided. Great Britain has, at this moment, a military post on the Columbia river, which, under the convention, I presume, she has a right to retain until the expiration of the ten years. The spot whereon a British post is now situated, is a very improper one to select for placing one of ours. I therefore approved of the amendment offered by the gentleman from South Carolina, (Mr. Poinsett.) But the principal question to be now settled is, Shall the plan of my colleague, to establish a territorial government, be adopted? or, Shall we adopt the proposition of the President, to establish a military post only? This question ought to depend on the answer to be given to another. Do we contemplate the eventual establishment of a state government on the Northwest coast of America? This depends on another question of importance, and worthy of serious consideration, to wit: Where shall the western limits of the United States be fixed? I do not mean the limits of their territory, or the extent of their power. We may have establishments on distant shores; but where shall the limits of the states, the members of this confederacy, be fixed? The institutions of nations should be adapted to their extent, and other circumstances. The federative system offers advantages for governing well an extensive nation; but there is some limit, beyond which it should not be extended. It will not be contended, that this system of government is adapted to include the whole earth, nor the whole continent of America; perhaps not even the whole of North America. There was evidently a limit to it, in the very nature of things. The representatives of the states and people, under this system, must meet together once a year for the purpose of legislation; and the confederacy might be so extended that this would be impossible. All the institutions of this country depend on the will of the people, and cannot exist a moment but by the approbation of a majority. Our system may be properly extended to include all who have a mutual interest in remaining united; but no further. Beyond this there is no bond of union sufficiently strong to keep the confederacy together. He conceived that this principle of union from mutual interest, might bind together all those who inhabit the waters of the Mississippi; as their products would seek one sea port; and that country would be bound to the Atlantic states, by commercial interests, and especially for naval protection. But I apprehend, that if this union included Mexico, it would be dissolved by mutual consent to-morrow. There would be no tie of mutual interest to hold us together. The exact point to which the confederacy might be extended for the mutual advantage of all, it might be difficult to ascertain. Perhaps we may safely include one or two tiers of states beyond the Mississippi; but, in my judgment, we ought not to extend our federative system further; and I would particularly recommend it to the gentlemen who represent the Atlantic states to consider the possible effects of a further extension, when the Western states shall become filled with people.

There is another consideration to be taken into view. We have a considerable Indian population, which it is

not intended to exterminate. We have a large population of another description, which it is not intended to exterminate. These, on failure of other plans, might be removed to the country beyond the limits of the states, and let the population of the states be homogeneous. On the whole, I think that, if a line is drawn far enough beyond the Mississippi, to include two tiers of states, it might be wise and proper to declare it unchangeable. Those beyond this line might be in alliance with us, or under our protection, and live under governments of their own, suited to their circumstances, but form no part of our confederacy. The effect of a too rapid increase of states, and bringing too much land into market, is already severely felt by the old states on the sea board, which are perpetually drained of the flower of their population. That must continue to be so, and the evil will increase the further we extend our limits. If we open, on the western coast, a fertile country, offering temptations to emigrants from among us—it will carry off many of our enterprising and valuable people; the country will rapidly increase in population, until it will drop off and become a separate nation.

All that was asked for by the President, was the sanction of Congress to the establishment of a military post. He did not ask for an appropriation of money, and it was not important whether it was made or not. The measure recommended by the President would be a proper one—possession would strengthen our claim in our negotiations with foreign powers. In our arrangement with Russia, we gave up all claim to the country north of 54 degrees 40 minutes. Perhaps we might have justly claimed as far as the 58th degree north. We have succeeded to the claim of Spain, who held by the right of first discovery. Humboldt, who, when at Mexico, investigated the subject, speaking of the voyage of discovery the Spanish navigator Perez made in 1774, he says, "On the 9th of August they anchored, the first of all the European Navigators, in Nootka road, which they called the port of San Lorenzo, and which the illustrious Cook, four years afterwards, called *King George's Sound*." He also tells us, that, in the following year, 1775, the Spanish navigator, Guadra, discovered the mouth of the Columbia river, and Mount Edgumbe; and he adds, "I possess two very curious small maps, engraved in 1788, in the city of Mexico, which give the bearings of the coast from the 17th to the 58th degree of latitude, as they were discovered in the expedition of Guadra."

Sir, (said Mr. S.) let the post which we establish, be purely military; a navy yard might constitute a part of the establishment. So far I deem it wise and fit to go; but let not our citizens be invited to that country by grants of land, or the expectation of a state government being established there.

The question was then taken on striking out the fifth section of the bill, and carried.

The question then recurring on the amendment offered by Mr. A. SMYTH—

Mr. FLOYD rose in reply to the remarks of that gentleman. He recapitulated some of the reasons before urged by him, against placing the numerous and mixed population on the Oregon river, under the control of a military commander. He appealed to the gentleman himself, (one of the most uniform republicans this country had ever seen,) whether it was possible that so many ships, with their crews, stopping, and refitting, &c. at the post to be established, involving the interest of a property afloat of ten millions, a mass of 1,600 or 2,000 traders, farmers, and fishermen, would, with propriety, be placed under the despotism of a military law? He had all due confidence in the officers of our army; but he knew it was so easy to feel power and forget right, that he did not like to confide too much to them. So difficult was it for citizens to conform themselves to army regulations, &c. no American would submit long to be put under martial law. As to the danger of erecting



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distant states, Oregon was not further from the seat of government under the improvements of navigation, &c. than Louisiana was when she was erected into a state; and not much further than Maine is; and he knew no reason why Oregon should be less attached to the republic. He was very sure that her interest bound her to us, especially in a time of war.

It mattered little, as to the obedience to the laws, in which state the place was situated where they were made; and he believed it would puzzle even a skilful lawyer to say in what state our laws are made at present. He dwelt on the value of the China trade, and the whale fisheries—and contrasting this with the appropriation called for by the bill, he took occasion to state that he had received a letter from a merchant of high standing and large capital in Boston, who had examined the estimates on which the sum in the bill had been predicated; and, although he pronounced them not too high, considering that Government must charter the vessels to be employed, he offered to transport what was necessary at a price considerably less; which he could afford to do, because he already owned a number of vessels in the Northwest trade. As to the danger of spreading our territory, and of the future state of Oregon separating from the confederacy—suppose it should be so? What then? Was it not better that this tract of country should be settled by us than by foreigners? And did the gentleman suppose that all the nations of the earth could stand by and see the vast region to the West of us, lie for centuries unoccupied? If we did not take possession, they would; and, by the law of nations, they would have a right to do so. If we forbade them, and they disregarded the prohibition, we must go to war with them; so that the gentleman's argument was as broad as it was long. Unless the territory was our own, we might look for war at any rate. It was, besides, of importance to give this vast country the blessings of free government. Even the patriots of the South found it hard to teach their people how to be freemen—and as to the Russians, he had long believed that, with them, the thing was simply impossible. Let the population of the West be free from the outset.

Mr. SMYTH now withdrew his amendment, and, instead of it, offered another, which was, to strike out the whole of the third section, [which offers bounty land to settlers in the territory.]

The motion was opposed by Mr. TRIMBLE, of Kentucky, who said that the section proposing to establish civil government in the Oregon at a future day, was not very essential, and he had voted to strike it out, under a hope that the other features of the bill would be more acceptable. The present section, though not absolutely necessary, ought, in his opinion, to be retained; and he would assign one or two plain reasons in its favor. But before doing this, he would ask leave to correct his friend from Virginia, (Mr. Smyth) in his construction of the treaty of Ghent. He says, that the treaty left the rights of the parties as they were before its date: and so far, agreed. But he says further, that the British are now in possession, and have therefore a right to hold the country until the expiration of the ten years stipulated in the treaty of London. If this is true, it would follow that the treaty has reversed the rights of the parties; and the gentleman's construction of it will place the interests of this government in a most perilous predicament. Let me show him, said Mr. T. how our rights stood before the treaty, and how they will stand in October, 1828, if his view of the subject is correct. We claimed the country before the late war, England claimed it, and Russia claimed it. Their titles were, of course, mere pretences. We sent out Lewis and Clark to explore the country, and make a demonstration of our right, and our intention to occupy and hold it. Not long after they returned, our fur traders went out across the mountains, and around Cape Horn, and took possession near

the mouth of the Oregon or Columbia river. In 1810, a town, consisting of a few trading houses, was built there, and called Astoria. After the late war was commenced, the British traders, aided by the Indians, drove our traders from the country, and held it and traded there until the treaty of Ghent. By that treaty, a mutual restoration of rights and territories was stipulated, except the Grand Menan, and the islands in Passamaquoddy bay, the sovereignty of which were agreed to be in contest. In pursuance of the treaty, Mr. Prevost was ordered up from Lima, as agent of the United States, to receive possession from the British. He arrived at the mouth of the Oregon river, on the 1st of October, 1818, and on the 6th, took possession of the British post near the bay. It was surrendered in due form, but not without a protest by the English settlers against our right to take it. Mr. Prevost sailed on the 9th or 10th of the same month, and as soon as he left the river, the British flag was again hoisted, and the country occupied as British Territory. This must have been about the 10th of October, if we may believe Mr. Farnham and Mr. Crooks, both of whom are men of veracity. On the 20th of October, the treaty of London was signed, so that in point of fact, the British were in actual, (though wrongful) possession of the country when that treaty was concluded. The treaty declares "that any country claimed by either party, on the Northwest coast of America, west of the Stony mountains, shall, together with its harbors, bays, and creeks, and the navigation of all rivers within the same, be free and open for the term of ten years, from the date of the convention, to the vessels, citizens, and subjects of the two powers. It being well understood that this agreement (the treaty) is not to be construed to the prejudice of any claim which either of the two high contracting parties may have to any part of the said country." And now, the important question is this: What will be the practical result if we leave the British in possession until the ten years are ended? That government may then hold this language to us:—Your mutual right of trade and navigation has been accorded to you, and you have enjoyed it for the full term stipulated; but now the rights of both parties are remitted back to their actual condition at the date of the treaty of London. At that date, (Oct. 20th, 1818) we were in possession, and your mutual privilege being now ended, you must cease to trade with the Indians, or navigate these waters, until the King shall grant you a renewal of the favor in another treaty. Thus our rights will cease at the end of ten years; and, instead of our people having the exclusive right to trade there after October, 1828, we shall be excluded from the trade entirely. This shows that the practical effect of the gentleman's construction of the treaty will be, to place our rights on that coast, and in that territory, on the footing of a lease for ten years, after which they are to cease unless renewed; whereas, if we take possession now, as we ought to do, and have a clear right to do, the rights of the British traders and navigators there, will cease in October, 1828. The establishment of a military post, therefore, to occupy the country, is of the first importance to us, because it revives and brings forward our rights, as they were before the treaty. The real state of the fact is, that England has only the *color of claim*, but to this she has wrongfully superadded an *actual possession*, and we must speedily re-occupy the country, or we shall have to treat for its reclamation at an obvious disadvantage.

So much for the treaty, he said, and now for the bill. By the establishment of military posts at the mouth of the Oregon, and on the bay of St. John de Fuco, we may command the trade of China, Japan, the East Indies, and the North Pacific. That ocean is the richest sea in the world, and is as yet without a master. He would not discuss the value of the trade there, nor speak of it as a nursery for our seamen. It was enough to know, that, for the last 3000 years, the nation that has held the

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control of the East India and China trade, has had the supremacy of naval strength and maritime power. But, said he, that side of the subject belongs to our exterior interests and foreign policy, which I do not intend to examine. I wish to look at it only as a question of domestic regulation and interior police. The proposed military post, with trading houses in the territory, and in the Rocky mountains, will command the fur trade, and we all know that the fur trade and the fur traders will command the Indians. The fact is proven by experience. This consideration, the best and surest way to preserve peace with the Indians, must, for the future, be a primary object in framing our territorial regulations, because we are about to make a radical change in our Indian policy. The President, I recollect, has called our attention to the subject, and has suggested a new system. Formerly, our policy was to *separate* the tribes, thrust our settlements between them, disunite them, and treat with them as independent nations; but now we are called upon to consolidate the tribes, *embody* them, and concentrate the entire united mass upon some portion of our western territories. This may be a wise scheme. It deserves serious consideration; but whether it be good or bad policy, if we embody the Indian tribes upon our western frontiers before we acquire the exclusive control of the fur trade, we shall have to embody an army to protect our settlements and look down all hostilities. This was Tecumseh's scheme of Indian policy. He was the inventor of it, and doubtless, under the direction of a chief like him, it would increase their power tenfold, and give new vigor to their hostile councils. Col. Dixon embodied some tribes last war upon the same plan, and so did Tecumseh; and we all recollect the impression they made upon our frontiers, and the destructive and distressing results, wherever they assailed us. If we adopt this new scheme of policy, we must begin by securing the exclusive command of the fur trade; we must disperse our traders throughout all the trapping districts. The fur traders are the best peace makers; because they unite with the Indians, and form a common bond of interest. The first step in the introduction of this new system, would be to establish a military post in the Oregon territory, to protect the traders. But would that be enough? Could the soldiery discharge their military duties, and at the same time provide subsistence for themselves, and the concourse of traders and Indians who would assemble near them at particular periods? Such a post ought to be surrounded by a hardy population to till the ground, and provide the necessaries of life in abundance, and thereby give confidence to the people, and durability to the settlement. If you locate a mere post there, without an auxiliary population to sustain it, some artful trader, jealous of our growing interests, and of his diminished profits, will not fail to bring down the Indians on the fort, and invest it, and we shall hear of nothing but sieges and massacres. And after all, what is the value of the land proposed to be given as a bounty to the first settlers? In that remote region, the land as yet is worth nothing: it has no value. The gentleman from Virginia fears that we shall spread too far, and hopes that the limits of the Republic will not be extended beyond the Rocky Mountains. Those who observe nations from their closets, and look at men and things through the medium of books, may throw out useful hints, and make wise observations; but it is practical men alone, that are relied upon to manage the affairs of nations. What may be the fate of the Federation if it should be extended beyond the Stony Mountains, and what good or ill fortune may betide the people of the Oregon two centuries hence, does not concern us much just now. Doubtless, posterity will know how to take care of itself, and provide for its own dangers, as we do for ours. The period is too remote for legislation; but, in the mean while, give your people the bounty land, and let them go and

make a settlement and form a nucleus, around which other emigrators may collect, and time will gradually consolidate them into a powerful community, and your treasury will be relieved from the annual expense of maintaining the proposed military post.

A motion was now made for adjournment, and, being carried,

The House adjourned.

IN SENATE.—WEDNESDAY, DEC. 22, 1824.

Mr. JOHNSTON, of Louisiana, laid the following resolutions on the table:

"Resolved, That the public lands of the United States be appropriated, and pledged as a permanent and perpetual fund, for Education and Internal Improvement.

"Resolved, That the proceeds of the sales of the public lands, after defraying the incidental expenses, be annually invested, by the Secretary of the Treasury, in the stock of the Bank of the United States, or in the stock of the Government, or other stock, as Congress may direct, together with the interest annually accruing thereon

"Resolved, That the year following the return of the next census, and immediately after the apportionment of Representatives, and every tenth year thereafter, the proceeds of the interest arising on the said capital stock, shall be distributed among the several states, according to the ratio of representation: one half of which sum shall constitute a fund for education, and the other half shall constitute a fund for internal improvement, to be applied to these objects, under the authority of the respective states."

The Senate proceeded to the consideration of the following resolution submitted yesterday by Mr. R. M. JOHNSON, of Kentucky.

"Resolved, That the Committee on the Public Lands be instructed to inquire into the expediency of making provision by law to authorize the several banks in which the public money arising from the sale of the public lands, were deposited, and which still owe balances to the United States, on account of deposits, as well as the debtors of such banks, whose obligations have been transferred to the United States, to pay the same in lands, upon such terms as may be just and equitable."

Mr. JOHNSON offered a number of considerations in favor of the measure contemplated by his resolution.—He called the recollection of the Senate to the benevolent act, of which he was a mover, for the relief of the purchasers of public lands, the justice, wisdom, and good effects of which were so universally admitted. The measure contemplated by the present resolution was of a character similar, and urged by similar considerations, as the relief law of 1820. Mr. J. said the amount due by the banks in the South and West, in which public moneys had been deposited, and whose failure brought them in debt to the Government, might be about 500,000 dollars. The defalcations of these banks originated in the same causes which rendered relief wise and equitable in the case of the land purchasers—that is, in an inordinate rage for speculation in land. The banks had failed in consequence of their extensive loans to those individuals who purchased land. After these extensive purchases, there was a great revolution in the pecuniary circumstances of the country; emigration to the West was suspended, and the Government reduced the price of its lands: these causes prevented all sales of lands by the individuals who had bought them up for speculation; and, consequently, rendered them unable to comply with their engagements to the banks; and thus created, on the part of the banks, an inability to comply with their engagements. Their failure had left them in debt, now, to the Government about 500,000 dollars. The banks had received from their defaulting debtors, in

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many instances, as security or payment, those lands which they had loaned the money to purchase; and, if the Government would now receive those lands back, either from the purchasers or the banks, it would eventually realize the whole or a part of the amount now due by the Western and Southwestern banks to the Treasury. Mr. J. argued at some length to show the expediency of such a measure, and its analogy to the cases which produced the beneficial relief law of 1820, which passed the Senate with so much harmony and unanimity. At any rate, as the resolution simply proposed inquiry into the subject, he hoped it would be agreed to.

Mr. EATON thought the scheme suggested by the resolution an impracticable one, or, at any rate, one of much difficulty, and one which, he believed, the Senate would not agree to. Therefore, as the inquiry would be one of much trouble, probably, to the committee, should it be referred, and a useless trouble, believing as he did believe, that, after all, the Senate would not sanction the measure, he thought it unreasonable to require a labor of the Committee on Public Lands which would result in nothing; and he, as one of the members of that committee, was therefore opposed to the resolution. Moreover, the duty of realizing whatever was possible from the debts of those banks had been assigned to the Secretary of the Treasury, and he was unwilling to change the arrangement for one so difficult and uncertain, if not impracticable, as the one proposed by the resolution.

Mr. JOHNSON replied, and Mr. EATON rejoined; when, on motion of Mr. KING, of Alabama,

The resolution was ordered for the present to lie on the table.

#### HOUSE OF REPRESENTATIVES—SAME DAY.

##### CLAIM OF MAISON ROUGE.

The resolution, offered by Mr. BRENT some days since, in relation to the claim of the representatives of the Marquis de Maison Rouge, to refer that claim to a committee, was taken up.

Mr. BRECK spoke in opposition to the resolution, on the ground that the claim in dispute had been submitted by Mr. Cox, the present holder of the vast tract of land concerned, to a judicial tribunal; in which case, he thought all legislative interference, on the part of this House, would be highly improper. Mr. B. stated a number of facts in support of this view of the case.

Mr. CAMPBELL, of Ohio, (Chairman of the Committee on Private Land Claims,) replied to Mr. BRECK; and understanding that the suits instituted by Mr. Cox, are only against persons settling on the land without any title at all, (squatters,) thought that these suits, however decided, could not settle the question between the claim of the Marquis de Maison Rouge, and that of the United States.

Mr. BRENT followed, in support of the resolution.—He went at some length into the facts of the case, and denied that any suit had been instituted, or, if any, none which could try the claim. No suit could be instituted against the United States, without a law of Congress expressly for the purpose. He knew the settlers personally, and he asserted that not one of them held under any title derived from the Government of the United States; they held under titles from the Spanish Government, and no suit against them could settle the question of Maison Rouge's claim. If Mr. Cox wished to bring his claim before the courts of the United States, his proper course would be, not to oppose the interference of this House, which alone could enable him to accomplish that object, but rather to invite it to act upon the subject.

Mr. RANKIN replied to Mr. BRENT, and detailed the history of the claim, as it had been for five years successively presented to Congress, together with the different general acts of the Government in their application

to the land in question. He thought that the suits now instituted would operate to try the question, inasmuch as they would give to Mr. Cox an opportunity to prove his title; and he deemed it a right of the present holder to have his claim fairly investigated by law, provided that, in pursuing it, he interposed no unnecessary delay.

The debate was farther continued by Messrs. BRENT, RANKIN, BRECK, and CAMPBELL; but, as it turned chiefly on the minutiz of the land laws, it was not reported with particularity.

[The lands involved are of great extent and value, occupying almost the whole of the county of Ouachita, in Louisiana. They remain unsettled—have never been exposed to sale, on account of the claim of the Marquis de Maison Rouge. The tract is in possession of Mr. D. W. Cox, of Philadelphia, who holds under the marquiss.]

The hour devoted by the rules of the House to the consideration of resolutions having elapsed, the debate was cut short by the Speaker's calling the orders of the day; when

The bill from the Senate, "making provision for Gen. LAFAYETTE," was taken up and read a first time; and, on motion of Mr. MALLARY, was laid for the present upon the table.

##### SETTLEMENT OF THE OREGON.

The House then resumed the consideration of the bill providing for the occupation of the Columbia or Oregon River; and the question being put on striking out the third section of the bill, (which proposes to grant land to settlers in that territory,) it was decided in the affirmative, ayes 101: so the section was stricken out.

Mr. WICKLIFFE moved to amend the bill by inserting the following section:

*Be it enacted, &c.* That, for the better security and protection of the rights of persons who may settle in or near the said military post, or who may carry on trade and commerce there, it shall be the duty of the President of the United States to prescribe such rules and regulations as he shall deem fit and proper; which rules and regulations shall be by him submitted to Congress, for their approbation, at their next session.

Mr. W. supported his motion by observing, that he did not contemplate, in proposing this amendment, to concede any of the legislative powers of this House to the President of the United States. He would reserve them in their full extent. But, if any thing like a settlement of the country on the Oregon was seriously intended, we must expect that there would soon be on that river something more than a mere guard of soldiers; the number of the settlers would greatly exceed that of any military force that it might be necessary to post there; but he conceived that we were all, at present, too imperfectly informed as to their situation and circumstances, to be in a situation to enact regulations for their government which should be suited to their condition and character. He therefore thought it was proper to refer the subject to the President, and to empower him, as the person most fit, from his situation, for such a task, to digest a system of rules and regulations for the government of this infant territory, which should be submitted to the approbation of Congress when it should next meet. As an American citizen, he was indisposed to subject the civil rights of the settlers to the caprice of military rule; and, though we might not at present be in circumstances to establish a territorial government on that river, yet we might prepare the foundations of one, with which view he had offered to add this feature to the bill.

The question being put upon Mr. WICKLIFFE's amendment, it was lost by a large majority.

At the request of Mr. HAMILTON, of South Carolina, the bill was then read with the amendments adopted yesterday, and was ordered to be engrossed for a third reading to-morrow.



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## GRATITUDE TO LAFAYETTE.

On motion of Mr. LITTLE, of Maryland, the House resumed the consideration of the bill yesterday reported by a committee of the House, "concerning General Lafayette."

Mr. SLOANE, of Ohio, moved that the bill be postponed until Monday next, and that a committee be appointed "to report a statement of the facts and accounts on which it is founded."

Mr. TUCKER, of Virginia, said he was willing to postpone the bill, if any gentleman desired it for his accommodation, but, for his part, he wanted no further information on this subject; neither, he presumed, did any gentleman of this House. He, therefore, moved to strike out the part of Mr. SLOANE's motion which proposed the appointment of a committee.

Mr. SLOANE thought the nature and importance of the question now depending, called for such information as he asked to obtain. Indeed, Mr. S. said he had no wish for a postponement of the bill if he was to get no additional information by it. The question, whether one hundred thousand or two hundred thousand dollars, or whether any thing, should be voted to General Lafayette, would depend upon the state of the accounts between him and the United States.

The motion of Mr. TUCKER was negatived.

Mr. COOK, of Illinois, said that the Senate, it appeared, had passed a bill on this subject, from the features of which it seemed that they entertained a different view from that presented by the committee of this House, as to the mode of awarding this money to General Lafayette: and what the Senate would do with this bill, if sent to that body, he could not say. To give time to consider of the proper mode of finally arranging this matter, Mr. C. proposed to recommit the bill to a committee of the whole, so as to endeavor, at least, to act in harmony and concert on it. This was what was expected from Congress by the People, and he hoped they would not be disappointed. If the bill was recommitted, it could be called up and acted upon with something like unanimity whenever the House was prepared to act definitively upon it.

The motion to recommit the bill was declared by the Speaker not to be in order whilst a motion for postponement was pending.

Mr. HERRICK, of Maine, after inquiring whether such motion would be in order, moved to postpone the bill indefinitely.

Mr. LIVINGSTON, of Louisiana, rose, as one of the members of the committee who reported the bill, to speak to the merits of it. The delay in doing so, which had taken place on the part of the committee, would not have occurred if it had been thought necessary to offer to the House any explanation on the subject. The committee, however, thought it would have been only necessary to echo the voice which is heard from one end of the country to the other. They thought the importance and value of the services of General Lafayette had been so generally known, that it was unnecessary to report the facts, in regard to the services of General Lafayette, on which they thought it expedient to recommend the passage of the bill now before the House. They hoped that the proceedings of this House, when, by an unanimous vote, at the last session, they acknowledged the value of those services, would have made such a report unnecessary. By that vote, Congress subjected the country to an expense, nearly, if not quite, equal to the amount of the proposed appropriation, by agreeing to send out a ship of the line to convey General Lafayette to this country. The committee did not calculate, after having done so, and his declining to put the United States to that charge, there would have been any objection to remunerating General Lafayette, in some degree, for his services and sacrifices in the cause of the United States. When, more recently, the Speak-

er of the House had been directed by an equally unanimous vote, to present the acknowledgments not only of the nation, but of this House, of the important services rendered to the country by General Lafayette, the committee would not have supposed themselves deficient in their duty if they failed to report facts or a statement of accounts in regard to that distinguished man. Speaking for myself, said Mr. L. I considered the proposed appropriation not as an affair of account—not as the payment of a debt to General Lafayette, but as the expression of a national sentiment, which would do honor not only to this House, but to this People—as an act which would, as far as it goes, serve to take away from us the reproach that Republics are ungrateful. I thought it would not be doing justice to our constituents, if we made this award a matter of valuation—an affair of dollars and cents: I thought a different mode of treating it most respectful to the House—most befitting the dignity of this government. Other gentlemen, it appears, entertain different views: perhaps they are more correct views. I do not stand here to set up my sentiments against those who think the matter ought to have been treated in a different way. Some think, and I have no doubt they very honestly and sincerely think, that they have no power to express the national gratitude in the manner proposed, or to vote away public money in any case to which a claim to it could not be substantiated on such evidence as would establish it in a court of justice. It was not for the want of such evidence, that the committee did not report it. The evidence in their possession was such as would, if duly weighed, satisfy the most scrupulous, of the justice of giving not only the amount proposed by the committee, but even double that amount.

The services of General Lafayette during the war of the Revolution, Mr. L. said, were known to, and must be acknowledged by, every one. He came to this country at the commencement of the Revolution. He continued his personal services until very shortly before the termination of that war by the treaty of peace. He ceased those personal exertions here only to render them in the same cause where, at the time, they were more useful. He was, indeed, very instrumental in bringing about that peace so important to us. At that time, yet in prosperity, he would have refused any compensation for his services and sacrifices, had they even been greater than they were. When oppressed by adversity, after the confiscation of the remainder of his princely estates, he accepted from the United States, what he would never before receive, the pay of a Major General, the rank which he held during the war. But, besides that, he was entitled, upon every principle of strict justice, to the half pay of a Major General for life. Owing to the civil mission, which had already been referred to, General Lafayette was not in service at the close of the war, and had not a legal title to this half pay, but his right to it, on every principle of equity, could not be questioned. To the representatives of another distinguished officer, (General Hamilton,) similarly situated, Congress granted the amount of half pay which would have been due to him, and that without commutation. The two cases were nearly parallel. The officers had, generally, the option, and almost, if not quite all, availed themselves of it, of receiving a commutation in lieu of half pay. General Lafayette had not this option, however, from the circumstance already mentioned, of his absence in Europe at the conclusion of the treaty of peace. What would be the amount of half pay for the more than forty years that have since elapsed, and the long life, which, Mr. L. said, he trusted this venerable man would still live to enjoy? Twenty added to the forty years already expired, would not be deemed an extravagant estimate: these sixty years of half pay, without calculating interest, would alone amount to something like eighty thousand dollars. Would any gentleman in this hall say, that General Lafayette was not as well entitled to his

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half pay as the family of General Hamilton were, after his decease?

But was this all? No, said Mr. L. it is not all. It is known as a public historical fact, that Lafayette, when he came to this country, brought also important and very necessary supplies to a large amount—an immense amount, considering that it was the offering of a single individual. What was the cost of those supplies, is information which chance alone has thrown in our way. Every one knew that it was great; but a mere fortuitous circumstance led a gentleman, lately at Paris, to inquire into what had been the pecuniary sacrifices of Lafayette in the cause of the United States, during the Revolution; and he obtained a document which shows precisely what money Lafayette did expend in our cause at that time. [Mr. L. here made a statement corresponding with that yesterday made in the Senate, by Mr. HAYNE, establishing that the expenditure of Lafayette, for the use of the United States, during the War of the Revolution, was 700,000 francs, or 140,000 dollars, besides sums modestly kept out of the account, which would have increased that sum.] Add this amount to that which is justly due to him for half pay for life, said Mr. L. and say whether a fair, honest, and equitable settlement of the account between him and the United States, would not leave us in debt to him, interest included, more than double the amount which the committee had reported in his favor. Here, then, sir, is an account of dollars and cents, since gentlemen desire it: here is something to satisfy the most scrupulous. When you offer to General Lafayette these two hundred thousand dollars, you do not pay the debt—you do not pay what you justly owe to him. I am very much afraid, sir, that, in going through this detail, I may wound the delicacy of the gentleman concerned; for I am persuaded that no circumstances would have induced him to bring forward, as a debt, what he gave to us. Half of his princely estates he freely spent in our service, without any other recompense than the secret satisfaction of aiding the cause of liberty, to which he from his cradle had devoted himself.

Mr. L. said he would not press upon the House arguments drawn from the feelings of the People of the United States on this subject. Those feelings, said he, are well known: and from what I know of the temper of this House, and of the feelings of the gentlemen who compose it, there is not one of them who will not regret that any consideration of what he believes to be his duty will prevent him from giving his assent to this bill. I yet trust, however, that the vote on this bill will be unanimous. I hope it will be seen that the whole House is moved by one consentaneous feeling, of obedience to the wishes of our constituents—one desire of expressing the sentiment of national gratitude which we owe to the nature of the government under which we act—one wish to satisfy our own feelings. I do not believe there is one gentleman in this House who will not excessively regret, that any notion of his duty, or regard to the disposition of the funds of the country, would prevent his giving a vote for this bill.

One circumstance there was, in relation to General Lafayette, which, though it did not come strictly into account, as forming a demand upon this government, furnished an argument which could not but strongly appeal to this House, in favor of that distinguished individual. [Mr. L. here stated the circumstance of the location of part of General Lafayette's land in the vicinity of New Orleans, and his giving it up to the city, &c. substantially as stated in the Senate yesterday by Mr. HAYNE. Mr. L. had the advantage of personal knowledge of the facts, and of having been the medium of communication with General Lafayette on that subject.] General L. declared, on that occasion, he would enter into no litigation with any one in regard to a grant which the United States had thought proper to make to him.

He withdrew the location he had made on a most valuable land, now worth 400,000 dollars, and transferred it to land hardly worth a dollar an acre. Mr. Livingston said he knew an idea had been held out, that the remainder of the land granted to the General by Congress had been sold very well. What had been obtained for it, he did not know; but he could say, for certainty, that, if anybody had given one dollar an acre for it, they had made a bad bargain. That part of it which he was acquainted with he would not have for a gift. The lands which the General yet held were of no value, as the expense of raising the levee, &c. on the bank of the river, would be greater than the value of the land after it should be so improved.

Knowing a good deal of the circumstances connected with General Lafayette, and having been a member of the committee who reported this bill, he had thought proper to state them, and he hoped what he had said would serve to remove whatever doubts existed on the minds of gentlemen on this subject.

The SPEAKER here corrected an error into which he had fallen in supposing that a motion for indefinite postponement took preference of a motion to postpone to a day certain. The question being then stated to be on Mr. SLOANE's motion to recommit with instructions, &c.—

Mr. McDUFFIE, of South Carolina, addressed the chair. He repeated the terms of the motion, to recommit with instructions to report a statement of facts and accounts, &c. because it more clearly indicated the genius of the opposition to this bill, and the principles on which that opposition was based, than any illustration could do. The motion involved the principle that Congress was about to render compensation to General Lafayette under the obligation of a bond. Put it upon that footing, said Mr. McD. and I shall vote against the bill. Put it upon that footing, and General Lafayette would disdain your offer of payment. What were the services which he rendered to this country, and what the motives upon which they were rendered? Did he render those services, and make those disbursements, upon any calculation of future retribution? Did he enter into a computation of what benefits he was thereafter to derive from them? Not so, sir: they were the magnanimous sacrifices of a heart devoted to liberty, reckless of consequences, succoring a people struggling for liberty. When we come to consider these services, rendered under such circumstances, shall we enter into a cold calculation as to what was the actual amount of the sacrifices of General Lafayette, and hold out to the world that we are rendering him this tardy tribute, not as a voluntary offering of the heart, but as the obligation of a bond? I admit, sir, the extent of the services of this individual; I am perfectly satisfied, indeed, that, upon a fair calculation, the interest alone of the money which he spent in our service up to this time would more than double the amount which this bill proposes to appropriate for his use. The extent of his services might well be a motive of this grant; but to refer this bill back to a committee, to make a minute calculation of the money he advanced for us, would be an act of ingratitude and disrespect to his higher and more elevated claims upon the country. Do you expect to obtain vouchers, said Mr. McD. for what was a grant to you, which the generous donor never wished nor intended to reclaim?

Mr. McD. did not intend to express any thing disrespectful to the supporters of the pending motion, but he must be allowed to say there was a degree of indelicacy in it which would shock the sensibility of any honorable mind, and particularly of him whom it was proposed to call upon to be an agent in a case so nearly affecting himself. I very much doubt, whether, if he heard this discussion, he would receive your donation. I trust we shall put this offer of an expression of our gratitude on such grounds, that he will be induced to re-

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ceive it: that we shall not render it as a debt due to him, but as a gratification of our own feelings, and of the feelings of this nation. And, notwithstanding what has occurred here, I trust he will accept the offer, not as his right to receive, but as ours to give, as a gratification to ourselves, and as a small testimony of the gratitude of the nation. Mr. McD. trusted that the House would not attempt to investigate what cannot be proved, and will not; that it would not descend to the investigation of facts which are known to the whole world, and are interwoven with the most interesting and important parts of our own history.

Mr. MANGUM, of North Carolina, expressed his deep regret that, at this stage of a business which must for three weeks past have occupied a considerable portion of the attention of the members of this House, a motion should have been made to recommit this bill to investigate facts in the case: and he said he could not view the present motion in any other light than as one which was in effect to test the success of the present measure. On this subject, Mr. M. said, he most heartily concurred in the views of the gentleman who had just taken his seat. What, said he, is the object of this reference? To go into a calculation of pounds, shillings, and pence, with our distinguished benefactor, which he would reject with disdain, and which could not but fill his breast with scorn at the proposition. Such an investigation would be, besides, absolutely impracticable, except by submitting the private concerns and feelings of this distinguished person to a scrutiny which he would shrink from, and which we ought not to require. Are we to call upon that individual to lay before us his vouchers for voluntary donations for our benefit forty years ago? Are we thus to compensate those services which are known even to every school-boy in our country? I should deem such an examination, if its institution was thought necessary, fatal to this bill, because the objects which it would profess to seek after could never be obtained. And is it believed, by the mover and supporters of this proposition, that General Lafayette, his fortunes being reduced, has been invited to our shores in the imposing manner we have seen; that he has been received every where with an enthusiasm which does honor to the sons of heroes—to be called upon here to produce vouchers for his claims upon our gratitude?

I have great respect, said Mr. M. for the scruples of gentlemen on the score of precedent; but, for myself, I believe that such a case as this can never again occur; and, if it shall, will this people shrink from meeting it? The gentleman from Louisiana has given an exposition which, it appears to me, must satisfy every one who heard it as to the right of General Lafayette to receive compensation from the United States for services and sacrifices. But, sir, are we to spread a Procrustean bed for the feelings of that distinguished individual to be tortured upon? Are we to give the exact pound of flesh, without one jot of blood? Is such the feeling in which the proceeding towards General Lafayette originated? If it is, the reproach is yet just, the adage is ratified, that Republics are ungrateful. I hope, sir, that the bill will not be recommitted, and that this House will not undertake to render justice to merits and services such as Lafayette's under the influence of a petifoggish disposition adapted to no higher vocation than litigation in small affairs before inferior courts. I could wish, for the honor of the American name, and still more for the honor of this House, that no such affair as this should have been meditated, unless we get out of the discussion of it in a manner more reputable than I begin to apprehend we shall.

Mr. M. said he did not understand, from what had been said, that any opposition was made to this bill on the score of principle. If we turn over our records, said he, we shall find divers instances of appropriations in a much stronger manner impugning the principles advanced

against this bill, than this bill does—instances of money granted merely in the way of gratuity, the present case being by no means one of that character. Was it, at this day, to be seriously argued that General Lafayette stood, in relation to our Revolution, on the footing of one of the people whose liberties were asserted by it? The correct distinction between the two cases had been drawn elsewhere, that, where a foreign enemy invades a country, all its inhabitants are equally embarked in the contest, and must abide by the consequences of it, it not being in the power of the government to indemnify all individual losers in such a war. But was that the case with a generous foreigner, whose fortune and talent are liberally embarked in the defence of the oppressed party in the contest? Surely not. It never can be the feeling of America that we should deal to him precisely the measure of strict right. But, let the present case be put even on that ground: it was proved by the exposition of the gentleman from Louisiana, and by facts of historical notoriety, that the proposed grant would still be inadequate to the demands of justice. Mr. M. therefore expressed an earnest hope, that, as General Lafayette had set up no claim in this case, inasmuch as he was not a plaintiff in this action, and the case was not to be tried upon technical pleadings, that the services which he rendered in the morning of his fortunes, would be met by this nation in a corresponding spirit, now that he is in the eve of his life.

The present motion, said Mr. M. I must consider as testing the strength of the bill; and sure I am, that, if we listen to the voice of all those people, who, in their person, felt the horrors and privations of the Revolution, or of the true descendants of their fathers who did feel them, we shall very much misrepresent them if we refuse to make the old age of Lafayette easy and comfortable. As one of the committee. I have felt it my duty to say that I decline a technical examination of the services of this veteran, because his services were never rendered in that spirit, and the people do not wish to meet them in it.

Mr. HERICK, of Maine, then rose, and said, that from the motion that he had submitted to the House, it might be supposed that he was in favor of the indefinite postponement of the bill, as being opposed to the bill itself. He was glad to have an opportunity to explain his views, and remove any false impression which might have been made in this particular. So far from being opposed either to the principle or to the form of the bill, he was, on the contrary, prepared to vote for almost any sum which the House should think fit to give, and had flattered himself that the bill, as introduced by the committee, would have passed the House without opposition: he did hope that there would not even be one word of discussion on the subject; but, from the course which things had already taken, he felt apprehensive that anything which the House might now do would be ineffectual, as he greatly doubted whether, after what had happened, the individual concerned would accept the donation, should it be made. This was one of those acts, of which it might emphatically be said, that, if done at all, it must be done quickly. If we are to sit, in cold debate, discussing and disputing the minutiae of such a bill, our passing it, he feared, would be in vain. Yet, still, if gentlemen shall conclude to pass this bill, they might rely upon it, that he, for one, would never oppose its passage, when that question was fairly presented to him.

Mr. BARTLETT said, that he rose, not to discuss the measure before the House, but to submit a proposition, which he hoped would render discussion unnecessary. He should regret deeply to see the Journal burdened with records of yeas and nays, motions and amendments, in a case like this. He had hoped that this bill would have passed in a manner as spontaneous as unanimous. He had hoped that, when we sent for Gen. Lafayette, and invited him, by a public act, to our shores, it was not to

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ask who he is, what he has done, and why we have called him; he had supposed that we knew who Gen. Lafayette was, and that none needed to ask what he had done. But he had had reason, since the delay and opposition which had occurred to such a bill as this, to think that it would be more honorable to the country, that yet further delay should now take place, in order, if possible, to give unanimity to its act on the subject. I cannot but remember, said he, that it is scarce ten days since we passed, with great unanimity, a bill to reward our own services, and I did suppose that the services of Lafayette were at least as well known, and as highly estimated, as ours. He was desirous that the bill should pass, not as a forced, but as a deliberate measure. He was unwilling to press it against an opposition which, if persevered in, must operate to take away all the grace of our gratuity. And, under these impressions, he was desirous of postponing the motion to recommit, and this whole subject, till Monday next.

Mr. CAMPBELL, of Ohio, then rose, and observed, that, having yesterday had the courage, perhaps some would say the audacity, to make some little opposition to this bill, which had been precipitated into this House like a comet through the atmosphere, it might be expected that he should give some explanation of the reasons which had influenced him. He did not rise to oppose the resolution for postponement, for he was himself in favor of it. He wished, for himself, some further time for reflection, and he could not but say that there was some little ill nature in the remark of the gentleman from North Carolina, (and he was sorry to say so, for no gentleman on that floor was, in general, more decorous in debate,) that two weeks had already been spent in this subject. But why had this time been allowed the committee, unless to give them opportunity, by reflection, to mature the measure they should present to the House. The gentleman should remember, that to the House nothing like this time had been allowed—indeed no time at all. And though the minds of the gentlemen of the committee might be fully made up, yet they were not to expect that, therefore, the minds of other gentlemen must also be so. It was not strange that, on a subject like this, there should exist some diversity of opinion. For his own part, Mr. C. said, he had never been opposed to the principle of the bill, and he would candidly state how far he had felt willing to go. He would have been in favor of granting a sum of \$50,000, and allowing General Lafayette the pay of a Major General for life. Had this been done, would it not have been quite as decorous, as attempting to force the bill through the House in its present form, without one word of explanation from the committee? Let us, said Mr. C. have time to commune with each other, and with the gentlemen who brought in the bill, as they have had time to commune with each other; but, if we must be taken by surprise now, I, for one, shall oppose the bill, and am willing to meet the consequences of that opposition, be they what they may—even though I may be so unhappy as to incur the displeasure of the gentleman from Louisiana, whose good opinion I confess I value as much as that of any other citizen I know. I feel that I have a duty to perform; I certainly shall perform it, nor can any power of man prevent me from doing it. With these observations, Mr. CAMPBELL expressed a hope that the motion of the gentleman from New Hampshire (Mr. BARTLETT) would prevail, for a postponement of this question for a few days.

After some explanation from the SPEAKER, as to the point of order, Mr. TUCKER, of Va. moved to lay the bill on the table, his object being to give time for conciliating an unanimous vote on the bill. The question being taken, this motion was negatived by a large majority.

Mr. MERCER, of Virginia, then rose, not, he observed, to wound the feelings of the House, by debating the

principle of the bill before the—, for, on that topic, he was persuaded there existed within those walls but one sentiment. He rose chiefly with the view of corroborating some of the statements which had been submitted to the House by the honorable member from Louisiana, (Mr. LIVINGSTON.) In doing so, he thought he should be able to win to the support of the bill the honorable member from Ohio, (Mr. CAMPBELL;) and, in so designating him, he did not use the language of ordinary courtesy, for he cherished habitual respect for his honorable friend. He rose, Mr. M. said, with no faint hope, however feeble his resources for the task, that he should prevail on all the gentlemen, who, to his great regret, differed from the majority of the House on the details of the bill, and for whose scruples he entertained the most indulgent respect, to unite with the friends of the bill in an unanimous vote. The question presented by the opponents of the bill, admitted of but two doubts, of the facts or the inferences from them, on which the assertion is grounded, that the grant proposed by the bill, to our illustrious guest, falls short of his pecuniary claims upon our justice.

Having been himself the medium through whom the manuscript which had been just read, had passed into the hands of the honorable member from Louisiana, he felt it to be incumbent on him to verify its authenticity.

On its very face, which bore marks of antiquity correspondent with its ancient date, it carried strong internal evidence of its truth, which was corroborated by a knowledge of the highly respectable channel through which it had very recently reached America. It moreover referred to a prior document submitted by the writer, who had charge of the estates of General Lafayette, to the Bureau of Emigrants of the Department of the Seine, early in the year 1793; at a time when the Revolutionary government of France sought to accomplish two purposes by inquiring into the condition and the causes of the dilapidation of the estates of General Lafayette, then proscribed, and driven from France by their crimes and their injustice.

This agent, Mons. Morizet, with a modesty derived from the example of the amiable man he served, reduces the sum of those expenditures which General Lafayette had incurred in the service of the United States, the cost of two voyages to France, and had in this account, stricken from the entire sum of 1,033,000 francs, 333,000. But, as these voyages, attended at the time with peculiar hazard, were undertaken at the request of General Washington, and for the obvious benefit of the United States, these expenses, instead of being deducted, should be added to the account. To a sum, therefore, exceeding two hundred thousand dollars, should be added the interest for the forty three years which have elapsed since the last expenditure of this long account, which would swell it to thrice the amount of the proposed appropriation.

The honorable member from Louisiana very justly computed the half pay equitably due to General Lafayette, for the same period; but, in omitting to notice the interest as equitably due on it, he left out a sum which would have swelled that single item to an amount equivalent to the object of our present debate.

With respect to the generous release, by General Lafayette, of the land which he had acquired near New Orleans, under our own grant, Mr. M. said he was perfectly acquainted with all the circumstances attending the transaction, through the voluntary communication of the Commissioner of the Land Office; and that they left no doubt on his mind of the validity or value of the title which General Lafayette had released, with equal generosity and delicacy.

The United States granted to General Lafayette, in part as his legal bounty, and in part as a manifestation of their esteem, 11,540 acres of land, to be chosen out of any of the public lands of the United States. He chose,

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*Gratitude to Lafayette.*

[H. of R.]

for the location of a part of it, to use a term borrowed from our laws, an ungranted territory, which nearly environed the city of New Orleans. A large part of this location has since become the heart of the city. In the midst of it stands the custom house; it is the theatre of extensive trade, and covered with numerous and splendid edifices. The title of General Lafayette to this land, under our own grant, was indisputable. Some years after he had appropriated it to his use, the Corporation of New Orleans petitioned Congress to grant to them the portion of the public territory within a distance of six hundred yards around their city, and the National Legislature, unapprized of the claims of the prior occupant, conceded what they asked. Of the superior title of General Lafayette, to the land covered by this subsequent grant, there could be no doubt. Why he did not prosecute and maintain his claim to this estate, so honorably and justly acquired, has been already fully stated to the House. This donation had been made him without his knowledge, in the fullness of our hearts, touched as they were with a knowledge of his wants, as a token of our sympathy, esteem, and gratitude; and he felt that it did not become him to question the precise extent of such a grant.

The value of the land which he so magnanimously relinquished, has, doubtless, not been over-rated, at four hundred thousand dollars.

Can there remain a question, then, but that the equitable claims of General Lafayette upon the United States, were he disposed to substantiate them, would exceed a million of dollars?

For himself, said Mr. M. he had hoped that the stock which the Senate had proposed to issue—and he greatly preferred their bill to that which had originated in this House, instead of being made redeemable among the last debts of the nation, would have been irredeemable forever, that it might forever remain a memorial of the gratitude of the American People to their illustrious benefactor. He had hoped that the land presented with the stock, instead of being limited to a poor township, would have reached such an extent, as to realize, in its future appreciation, to the descendants of General Lafayette, the entire debt of this nation to their generous ancestor.

He did not mean to comprehend our debt to this, our benefactor, for his services, but for his pecuniary advances and their accruing interest.

As to his services to our cause—the cause of freedom in Europe and in America, their value is immeasurable. There is not a man who now, or may hereafter tread our soil or breathe our air, with the elastic spirit of liberty, who is not, or will not owe him an inestimable debt—a debt to be felt, not to be computed. I defy the united powers of Euclid and Archimedes to calculate or measure the height and depth, the length and breadth of the obligation of America to her benefactor. It is here, said Mr. M. (laying his hand upon his heart.) It belongs to the soul, and no gauge can graduate it.

Are gentlemen alarmed at what is called the example, the precedent, we are about to offer to our successors? I have labored, said Mr. M. with all the powers of memory, to recall to my mind an example of disinterested and heroic benevolence which can form a parallel to the conduct of Lafayette; and if the history of the past affords none, why need we not trust the future? The only spirit of prophecy which is not of divine inspiration, exists in the analogy which infers the future from the past.

But what is the character of the example from which this unfounded apprehension arises? Was it not to our fathers, is it not to us, and will it not be to our posterity, invaluable? Need we go back to the crusades to demonstrate the influence, the contagion of chivalrous enthusiasm? No sooner was the consecrated banner of Peter the Hermit unfurled for the recovery of the Redeemer's sepulchre from the infidel Saracen, than one

spark of inspiration electrified all Europe; one common soul pervaded all Christendom, and poured her armed nations on the plains of Asia.

Contrast the heroism of that age with the solitary self-devotion of Lafayette! When I look back to the early period of our Independence, and behold our own unrecognized ministers in France, with a tenderness which does them immortal honor, remonstrating with the young enthusiast on the hazard and hopelessness of his projected enterprise in our behalf—when I hear them, in a tone of generous remonstrance, tell him that our cause was sinking, and they had not even a vessel to offer him for his perilous voyage, and hear him reply, I have, then, no time to lose! I cannot, turning from this scene to that before me, bring myself to believe, that gentlemen, who differ from the obvious majority of this House, need to rest three nights upon their pillow, before they can arrive at unanimity upon this bill. I cannot but believe, sir, that, when we come to the vote, we shall do it with one heart, and that we are now as well prepared as we shall be on Monday next. We have now met our opponents in the spirit of friendly explanation; we have complied with their wishes—stated, recapitulated; and, I fervently trust, they are ready to act with us for the honor of our common country.

Mr. STORRS, of New York, then rose, and said, that, as one of the members of the committee to whom this subject had been confided by the House, he felt it his duty to that committee, and to himself, to say a few words in vindication of the course which had been pursued in relation to this bill. Complaints had been urged by some members of the House, that no statement had been produced of what seemed to be considered as “the accounts” of Gen. Lafayette. The committee had never insulted that individual by asking, in any quarter, for such things as his accounts. After the President of the United States had, in his solemn address to both Houses of Congress, recommended the services and sacrifices of General Lafayette as worthy of legislative regard, and had advised that such a provision should be made for him as “might correspond with the sentiments of the American people, and be worthy of the character of this nation,” what had a committee to whom that recommendation was committed by this House, to do with his accounts? Were they to erect themselves into a Committee of Claims where no claim was made; and what was more, where no such thing as a claim would be endured by that House, as violating the feelings of a man whom it wished to honor? Ask for his accounts! Sir, I would not perform such a task. Not even were you to order me, could I do it without insulting him. No, sir, we had no such matters as the accounts of General Lafayette to lay before the House.

Sir, let us remember that the eyes of Europe are this moment upon us. Her monarchs, her people, are anxiously waiting to see how we shall act. The despots of the old world are anxious to know whether, after inviting Lafayette to our shores—after offering to send a national ship to bring him over—after welcoming him from city to city, we are about to send him back and subject him to the sneers of royalty, and, with him, to expose ourselves and the cause of free government to their reproaches. The question we are called to decide is, whether America, for whom he shed his blood, devoted his fortune, and dedicated his talents and his virtues, is about to send back her benefactor in the face of Europe, to be the object of their scorn, and leave the record of our proceedings as a monument of the feelings of the American people. The question before us is, whether we will support the principles of our own government in our conduct towards one who has been considered on both continents as the great Apostle of Liberty, and justly so considered; for, next to the great Apostle of the Gentiles himself, has this man served the best interests of mankind. Next in value to those which the one disse-



Sen. &amp; H. of R.]

Lafayette.—The last Session.

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minated, are the blessings which the other has labored to spread among the nations of the world. The question is, whether his services are worth a memorial? This, it is true, is not needed for his character; as has been well said on a public occasion, "history has already taken charge of his fame;" but, as was justly observed by the presiding officer of this House, General Lafayette now stands among posterity, and our act this day is to be the judgment of posterity on his merits and his fame. Are we then here to record our value for civil liberty and all the blessings it bestows, or is it that we may send one of the greatest benefactors her cause has ever known, back to his country as a witness of the ingratitude of Republics? But I said I would not speak of his services, nor will I. Whoever has known or read our history can be no stranger to what he has done for us. It is to be known to-day what we think to be due at least to our character as a nation.

The question was then taken, on the motion of Mr. SLOANE, and decided in the negative.

The question was then taken, on the motion of Mr. GAZLAY, to strike out 200,000 dollars, the amount proposed to be paid to General Lafayette, and to insert 100,000, and decided in the negative by a large majority.

The question was then taken on ordering the bill to be engrossed, and decided in the affirmative by a large majority.

It was then ordered that the bill should be read a third time to-day.

The bill was then read a third time, accordingly, and the question thereupon decided, on request of Mr. BEECHER, by Yeas and Nays, as follow:

YEAS.—Messrs. Abbot, Adams, Alexander, of Vir. Alexander, of Tenn., Allen, of Mass., Allen, of Tenn., Allison, Archer, Bailey, Baylies, Barber, of Conn., P. P. Barbour, J. S. Barbour, Bartlett, Bartley, Bassett, Blair, Breck, Brent, Brown, Buchanan, Buckner, Cambreleng, Campbell, of S. C. Carter, Carey, Cassedy, Clark, Cocke, Collins, Conner, Cook, Craig, Crowninshield, Culp, per, Cushman, Day, Durfee, Dwinell, Dwight, Eaton, Eddy, Edwards, of Penn., Ellis, Farrelly, Floyd, Foot, of Conn., Foote, of N. Y., Forsyth, Forward, Frost, Fuller, Garrison, Gatlin, Govan, Gurley, Hall, Hamilton, Harris, Harvey, Hemphill, Henry, Herrick, Hobart, Hogeboom, Holcombe, Hooks, Houston, Ingham, Isacks, Jenkins, Jennings, J. T. Johnson, Kent, Kidder, Kremer, Lathrop, Lawrence, Lee, Leftwich, Letcher, Little, Livingston, Locke, Long, Longfellow, McArthur, McDuffie, McKean, McKee, McKim, McLane, of Del., Mangum, Mallary, Markley, Martindale, Marvin, Matlack, Mercer, Miller, Mitchell, of Penn., Mitchell, of Md., Moore, of Ken., Moore, of Ala., Morgan, Neale, Nelson Newton, O'Brien, Olin, Owen, Patterson, of Pen., Plumer, of N. H., Plumer, of Pen., Poinsett, Rankin, Reed, Reynolds, Richards, Rose, Saunders, Sandford, Sharpe, Arthur Smith, Alexander Smyth, Wm. Smith, Spaight, Standefer, A. Stevenson, J. Stephenson, Stewart, Stoddard, Storrs, Swan, Talliaferro, Tattnall, Taylor, Ten Eyck, Test, Thompson, of Penn., Thompson, of Geo., Tomlinson, Tracy, Trimble, Tucker, of Va., Tyson, Udree, Vance, of N. C., Van Rensselaer, Van Wyck, Warfield, Wayne, Webster, Whipple, Whitman, White, Wickliffe, Williams, of Va., Williams, of N. C., James Wilson, Henry Wilson, Wilson, of S. C., Wolfe, Wood, Woods, Mr. Speaker—166.

NAYS.—Messrs. Beecher, Buck, Burleigh, Campbell, of Ohio, Crafts, Gazlay, Gist, F. Johnson, Lincoln, Livermore, McCoy, McLean, of Ohio, Matson, Metcalfe, Patterson, of Ohio, Ross, Scott, Sloane, Sterling, Thompson, of Ken., Tucker, of S. C., Vance, of Ohio, Vinton, Whittlesey, Wilson, of Ohio, Wright—26.

When the yeas and nays had been called and recorded, the SPEAKER rose, and observing that, having been

precluded, by the place he held, from the expression of his sentiments in relation to either the principle or the form of the bill, he requested of the House that he might be permitted so far to give expression to his feelings, in relation to both, as to record his vote with those of the other members; and, leave having been promptly given, the Clerk called the Speaker's name, and his vote was recorded in the affirmative.

When the House adjourned.

IN SENATE—DECEMBER 23, 1824.

GENERAL LAFAYETTE.

The bill passed by the House of Representatives, "concerning General LAFAYETTE," was brought to the Senate for concurrence.

The bill was read the first time, and ordered to be read a second time; it was then, on motion of Mr. BARBOUR, read a second time, without objection, and taken up in committee of the whole. No amendment or objection being made to the bill in committee of the whole, it was reported to the Senate, and, on the question of ordering the bill to a third reading, it was carried with but one audible dissenting voice.

The bill was then, on motion of Mr. SMITH, and by unanimous consent, read the third time, *PASSEN, nemine contradicente*, and returned to the other House with a message acquainting that House therewith.

HOUSE OF REPRESENTATIVES.—SAME DAY.

After the minutes of yesterday's proceedings were read—

Mr. HERKIMER, of New York, rose, and stated, that he had yesterday been prevented by indisposition from voting on the passage of the bill "concerning General LAFAYETTE," and that he now asked permission of the House to have his vote taken and recorded on that bill.

The SPEAKER put the question, and, it appearing that one member voted against granting permission, by which Mr. HERKIMER was precluded from voting, (the Rules of the House requiring an unanimous vote to suspend a rule)—

Mr. HERKIMER then asked the indulgence of the House to say, that, if he had been in the House, he would cordially have voted in favor of the bill.

Mr. LITCHFIELD, of New York, and Mr. FINDLAY, of Pennsylvania, were in the same situation, and were in the same manner precluded from expressing their sentiments in favor of the measure.

TRANSACTIONS OF LAST SESSION.

Mr. RANDOLPH rose, and said, that a letter addressed by him to his constituents having become, on the last day of the last session of Congress, a subject of animadversion on this floor, he felt it to be due to himself, as well as to his constituents, to state to the House as succinctly as he might, the *facts* having reference to that occasion, leaving every thing like inference or argument to be deduced by others. I say then, continued Mr. R., that when I entered the room of the committee to whom was referred the memorial of Mr. Edwards, on the 28th of April—I go by the dates on the Journal—there was a naked proposition of an honorable member before that committee, which it is not necessary for me here to recite. To that proposition I moved an amendment, which it is equally unnecessary to recite, when I was informed that a similar proposition had been already rejected by the committee; and I then learned, for the first time, that the original proposition consisted of two substantial propositions, the latter of which had been discarded. I asked to read the proposition which had been so discarded, and pointed out the difference between mine and that, which was obvious to every one who would compare the two. That proposition of mine, however, not meeting the favor of the committee, I proceeded to

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suggest such considerations as occurred to my mind, why it should be adopted; and, during that discussion, the honorable member from Louisiana (Mr. LIVINGSTON) joined the committee. I stated to him the proposition pending before the committee. He readily coincided in opinion with me on the subject, stating his concurrence of opinion in these words: that "he could not see what other course could be resorted to." Then, and not till then, was there a general acquiescence in this proposition—then, and not till then, were all the committee present—then, and not till then, was my proposition adopted. It is unnecessary for me to say, that in nothing that I have written or said, could I have had reference to the ulterior decision of the committee; and, if any proof were wanting to satisfy the most incredulous, it would be found in the fact, that, on the 11th of the ensuing month, as appears from the minutes of the committee, a proposition was made by me to lay the minutes of the committee, including this very transaction, up to that day, before the House. I have no wish to go further into this subject. It was incumbent on me—it was my bounden duty, to take the earliest opportunity to make this statement to you and to the House; and I have availed myself of the earliest moment to do so.

Mr. LIVINGSTON, of Louisiana, said that the statement of facts which had been made by the gentleman from Virginia, was precisely correct, according to his (Mr. L's) recollection of what passed in the committee. The misunderstanding on this subject, Mr. L. said, had arisen from a misconstruction of the letter which had been written by the gentleman from Virginia on that occasion. That letter, he must be allowed to say, was so worded as to justify the construction, that a majority of the committee had, with much difficulty, been prevailed upon to give the Secretary of the Treasury an opportunity of being heard. This he understood to be now disavowed by the gentleman from Virginia, and the circumstance, which he had stated, of his motion to lay the minutes of the proceedings of the committee before the House, convinced Mr. L. that such was not his intention, and he took pleasure in stating this impression.

Mr. OWEN then observed, that, as he was a member of the committee on the memorial of Ninian Edwards, it might be proper in him to take some notice of the remarks and statements which had been made by the gentleman from Virginia, (Mr. RANDOLPH.) He had had some conversation since he came to the city, with other members of the committee, and endeavored to bring the facts which occurred to his more distinct recollection; and he believed that the statement now given by the gentleman from Virginia, was substantially correct. When he entered the committee room, a proposition, in relation to submitting the memorial of Mr. Edwards to the Secretary of the Treasury might have been the subject of conversation, but he now felt satisfied that the proposition had been disposed of by the committee before the gentleman entered, and that his was a distinct proposition. The conversation, he believed, had relation rather to the manner of submitting the charges in the memorial to the notice of the Secretary of the Treasury, against whom they were directed, than to the measure itself. He thought, (as far as he could recollect,) the proposition of the gentleman from New York, (Mr. TAYLOR,) was to submit the entire memorial, and let the Secretary answer such parts of it as he might deem proper. But Mr. OWEN's own impression was, that, in the then present situation of that officer, it would be improper that all the language of that memorial should be submitted to his eye. It would submit various charges which were unimportant, but which he might think himself bound to answer; while he might esteem others of too little consequence to be answered, of which the committee might think differently; and he, therefore, had thought it would be best to specify the particular points which he was expected to answer. To this it was replied,

that if all were submitted, the Secretary would have a fair opportunity to judge for himself in a way better than any others could judge for him. Then it was, and not till then, that the gentleman from Virginia offered the proposition to which his published letter seemed to allude.

Mr. WEBSTER then rose, and said, that he had not had occasion to refresh his recollection of the occurrences alluded to, since the last session, either by reference to the minutes of the committee, or conversation with other members of it. But that he did not think a material circumstance. All he had now to say was, that the address of the honorable member to his constituents appeared to him (Mr. W.) and he presumed to others, to convey plainly the idea, that it had been with difficulty that a majority of the committee had been prevailed on by the honorable member to consent that the Secretary of the Treasury should have an opportunity to answer the charges made against him in the memorial of Ninian Edwards. If he, (Mr. W.) was now to understand that the honorable member did not mean to convey such an idea, then he was willing to take the gentleman's statement to that effect, and ready, therefore, to say, that what he had observed on a former occasion, was said under a misapprehension of the honorable member's meaning. But if it had been intended to be represented in the honorable member's letter to his constituents, that a majority of the committee were reluctant, or unwilling, or needed to be prevailed upon, by any efforts of the honorable member, to allow the Secretary an opportunity to answer the charges, then the statement which he (Mr. Webster) had formerly made, was not only just, but necessary. He (Mr. W.) thought then, and still thought, that if the honorable member intended a reflection on a majority of the committee, it was incumbent on him to be explicit—to state of whom that majority consisted—that every individual gentleman might have an opportunity to answer for himself. The only matter, therefore, as he (Mr. W.) thought, which called for explanation, was this, viz: Did the honorable member intend to represent, that a majority of the committee were unwilling to give the Secretary the fullest opportunity to answer the charges against him?

Mr. RANDOLPH.—I have stated as clearly as I could, and I could recapitulate, were it necessary to trouble the House with it, the facts as they occurred.

Mr. M'ARTHUR then rose, and said, that he should like to understand from the gentleman from Virginia, whether he wished to be understood as having stated that the committee consented, with reluctance, that the charges in the memorial should be submitted to the Secretary, that he might answer them. If such, said Mr. M'A. was his impression, it certainly was not mine. If the gentleman says he did not mean to convey this idea, I am satisfied—but, if he says he did mean to express such a meaning, and to apply it to a majority of the committee, I deny the proposition of the gentleman.

Mr. FLOYD, of Virginia, said, that it would, perhaps, be recollected, that, at the time the inquiry on this subject was introduced at the close of the last session, he was not in the House—he was not present when the gentleman from Massachusetts made his statement to the House as to what had passed in the committee, nor did he know that he had made such a statement until after he had himself spoken. At that time he thought he observed some reluctance in that gentleman to answer; but he was persuaded then, as now, that there was some misapprehension. The statement now made by the gentleman from Virginia was a true one. He believed that many supposed the language of the letter he had written to refer to a vote of the committee—but his own understanding of it had always applied it to the general conversation which took place among the members of the committee while in the committee room. Suppos-

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ing that, if any thing unpleasant should grow out of what had passed, he might himself be referred to—he had endeavored to bring up the whole of what had occurred to his recollection; he had also had some conversation with other members of the committee, but had no reference to the minutes. He felt assured that there had existed a misapprehension in the exposition of the language of the gentleman from Virginia.

[The remarks of Mr. FLOYD were made in so low a tone of voice, that our reporter lost much of what was said; but the above is believed to be the substance of them.]

Here the conversation ceased.

#### OCCUPATION OF N. W. COAST.

The engrossed bill "To provide for occupying the Columbia or Oregon River," was read a third time.

Mr. WHIPPLE, with a view to the amendment of the bill, by striking out the third section, moved to recommit it; and accompanied his motion by some remarks on the impolicy of attempting the establishment of a Custom House, and the organization of a Territory, on the coast of the Pacific.

Mr. FLOYD made some explanations in reply, and concluded them by a request, that the gentleman from New Hampshire would oblige him by withdrawing his motion.

Mr. WHIPPLE repeated some of his reasons against the third section, but would not refuse the request of the gentleman, and therefore withdrew his motion.

But it was renewed by Mr. COOK, of Illinois, who wished to press upon the House the question whether the establishment of the contemplated post, taking formal and effectual possession of that region of country, would not be viewed by England as an infraction of the Treaty of Ghent, by which it was agreed, that, although the country on the Oregon should remain open to both nations during ten years, (four of which are yet to come,) the rights of neither to the soil should thereby be prejudiced. The establishment of a territory would, of course, lead to an extinguishment of the Indian title, and a permanent taking possession of the country for our own. This he feared, as leading us into difficulties. He thought it would be better to recommit the bill. Mr. Cook replied to the views yesterday expressed by the gentleman from Kentucky, (Mr. TRIMBLE,) in relation to the operation of the Treaty, into which he went at some length, in confirmation of the view he had above taken.

The question on recommitment was then put, and decided in the negative. And the question then recurring on the final passage of the bill, it was determined in the affirmative—Ayes 113, Noes 57.

So the bill was PASSED. Its title was altered, at the suggestion of Mr. FLOYD, by omitting the words "Columbia or" before the word Oregon, and then the bill was sent to the Senate.

#### HOUSE OF REPRESENTATIVES—Dec. 27, 1824.

Mr. ELLIS, of Penn. submitted the following:

*Resolved*, That the Committee on the District of Columbia be instructed to inquire into the condition of the Jails of Washington and Alexandria, and the expediency of directing any repairs or improvements on those buildings, or reformation in the present systems of conducting those institutions. And, also, that the Committee on the District of Columbia be instructed to inquire into the expediency of erecting a Penitentiary house for the District of Columbia in the city of Washington.

In support of this motion, Mr. ELLIS wished very briefly to explain the object of his resolution. He said that, in all well governed communities, the means of repressing and punishing crimes, had been a subject of the first importance in their legislation; that the modes of punishment and reformation of offenders against the

laws, had long been an object of great solicitude among the most enlightened men of Europe. This subject had drawn to its consideration the first talents of modern times—I say, said he, the first talents, because I speak of such men as Howard and Baccaria. So early as 1785, the labors of these great men were directed to this subject, and the best results have followed their exertions. About the same time, the Legislature of his native state engaged in the reformation of the penal code of Pennsylvania. In 1794, the Penitentiary system was adopted there; this system is well known and duly appreciated, not only in Pennsylvania, but in Europe—for reference to the Legislature of this state, on this interesting subject, has been frequently made with high approbation, by the most respectable European writers on the subject.

The experiment made in Pennsylvania has led to the melioration of punishments in New York, and many other of the states.

He stated that he had visited the gaol of this city, and that, from the observations he had made, he was satisfied that legislative interference was necessary. And he was persuaded, if gentlemen would take similar means to acquire information on the subject that he had, they would not differ materially from him in their conclusions.

In the system adopted here under the laws of Congress, the *debtor and criminal*, the *accused and the convicted*, are all placed upon the same footing. Punishment and security amount to the same thing. In the whole system there is nothing but simple force and confinement: reformation of the convict forms no part of the system adopted here. No labor of the prisoners—but all is actual force and confinement.

The object of all penitentiary punishments, is, at least, two-fold—punishment and reformation. Here, it would seem that the laws direct themselves but to one of these views, namely, punishment.

He thought that, in this place, the seat of Government of the United States, concentrating the experience and intelligence possessed in all parts of the Union, that the legislation on this subject ought not to be behind that of the several states.

Perhaps the peculiar population of the District required a revision of the present system. It is a rapidly increasing population, and a portion of it is frequently a transient and passing one; thrown loose from those obligations which men feel to bind them in their original and primary associations.

He thought the Penitentiary system, as opposed to that adopted here, required no defence. Yet, if it did, it is then susceptible of every defence. But he did not deem the present as a proper occasion on which to make it.

He could not believe that the people of this District were satisfied with the present modes of punishments adopted here. It is a system unworthy the authority of Congress.

Every humane and enlightened visiter, who comes to remark upon the character of this place, and to carry away a report and portraiture of the city and the administration of the government of the United States, would say that reformation was necessary. To obtain this reformation was the object of the resolution which he had submitted.

The Resolve was then agreed to.

#### NIAGARA SUFFERERS.

On motion of Mr. TRACY, the House went into committee of the whole, Mr. CAMPBELL, of Ohio, in the chair, on the bill "further to amend the act authorizing the payment for property lost, captured, or destroyed by the enemy, while in the military service of the United States, and for other purposes.

Mr. WILLIAMS, of North Carolina, rose in opposition to the bill. If the applicants on the present occasion did not succeed, it would not be for the want of the aid of the gentleman from New York, (Mr. TRACY,) who



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had exhibited great vigilance and untiring perseverance in behalf of the claimants. In the report upon the subject, which the gentleman had laid before the House, he had undertaken to present something like a history of the legislation of Congress on the subject, which, though sufficiently minute in its details, was very erroneous in its conclusions. The report, Mr. W. said, set out with a declaration, that the act of 1817 was intended to *extend* the provisions of the act of 1816. If the gentleman had attended a little more minutely to the facts in the case, he could not possibly have arrived at this conclusion. That act was intended to restrain those provisions, instead of extending them. Mr. W. here reviewed the history of the amendatory act. In the course of execution of the act of 1816, the President, conceiving too wide a construction of it had been given or meditated, suspended the execution of the law, and, by his message of December 6, 1816, recommended to Congress a revision of the law. That message was referred to the Committee of Claims, who, on the 16th of the same month, made a report, condemning the principle of several of those decisions, and recommending a change of the provisions of the law, so as to make their repetition impracticable, which was accordingly done by an amendatory act. It appeared, therefore, to have been the object of the President, and of the Committee, to restrain the commissioner in his decisions. The claims which had been passed, and the allowances which were considered objectionable, were those to Mr. Carroll and Mr. Ringgold; those which the commissioner intended to have allowed, had the law not been changed, were the very claims for which the bill now under consideration proposed to provide. It was the apprehension of the allowance of these very claims that induced the President to suspend the execution of the act, and Congress to change its provisions. From the view which the gentleman from New York had taken in his report, it would appear that Congress, in the act of 1816, intended to provide for the payment for those buildings which had been occupied as barracks. But, Mr. W. said, the allowance to Mr. Carroll, was upon the ground that his buildings had been occupied by troops, and so was that of Mr. Ringgold; and yet these were the very allowances which Congress disapproved, and passed the act of 1817 to prevent the recurrence of. If the intention of the act of 1816 had been to allow such claims, the commissioner did nothing wrong—made no mistake—and there was no necessity of passing the subsequent act of 1817. That act provided that, on all claims over two hundred dollars, the commissioner should be restrained from giving any final award, and should only report the facts, and his opinion, to Congress. But, if the commissioner had made no improper allowances, why did the second act curtail his power?

It was evident, that, in making the allowances he did, he had departed from a right construction of the act of 1816, and the act of 1817 was passed to remedy the error. But, whatever doubt there might be as to the true meaning of the law of '16, should the bill now reported by the gentleman pass, he would, "by one fell swoop," (to quote the gentleman's own language as applied by him to the Treasury,) destroy them all. (Here Mr. W. quoted the bill.) Now, I put it to the candor of the gentleman, whether, supposing a house to have been occupied for a day for some military use, at the opening of the war, and to have been burnt by the enemy on the last day of the war, Government was bound to pay the loss? No, surely. It was never the intention of Congress that an occupation merely accidental and contingent should bring a house or building under the provisions of the act. I know, indeed, said Mr. W. that the occupation in the case of Carroll's and Ringgold's buildings, was but temporary, and yet they were allowed by the Commissioner; but the Committee of Claims decided against the allowance, as being contrary to law. It was

the intention of the act of 1817, that no occupancy, except such as was permanent, should give a claim for indemnification. This, and this alone, was the just and the proper rule. Any rule that went beyond this point, Mr. W. pronounced to be extravagant, unreasonable, and destructive to the interests of the country. The principle of the gentleman from New York is, that, though the house should have been occupied on the first day of the war and destroyed on the last, the Government is bound to indemnify the sufferer; because the war is its own act. Sir, I not only deny this position, but I greatly doubt if the Government is answerable in any case. I know that, on this point, writers on national law differ in their opinions. But I hold it to be the sentiment of the best of these writers, that Government is not liable for any destruction of property by an enemy. The gentleman says, that the citizens on an exposed frontier are, or ought to be, the objects of peculiar protection to their Government. I question this. Sir, is not every citizen under this Government free? Does he not choose for himself the place of his abode? Does he not know that, on a maritime frontier, especially, he will enjoy advantages peculiar to that situation—advantages of marked—advantages of easy and cheap transportation, which the citizens in the interior cannot possess? And does he not know, on the other hand, that in case of the recurrence of a state of war, the frontier will, of course, be most exposed to danger; and if, in his opinion, the advantages to be enjoyed do not fully compensate the danger to be incurred, is he obliged to go there? The citizen in the interior is forced to march many miles to defend him, and also has to pay taxes for the same object—and would we compel him, after the war is over, to pay all his losses too? Sir, the Government of a country ought to be just, not only before a war, but during the war, and after the war. If the citizen in the interior must pay what he on the frontier suffered by the war, why ought not the citizen on the frontier to pay him of the interior for his expenses in coming to aid him? It is a bad rule that will not work both ways. The gentleman from New York well knows that citizens on the frontier have commonly an active part in occasioning the wars of a country, (especially wars on a commercial question,) and yet he tells us that if you do not give them special protection, they will be in danger of making terms with the enemy. Sir, let them do it—and then let them see whether their Government will not know how to punish such behaviour. They call on Government just as if they had had no hand or part in bringing on the war—as if it were the doing of the interior exclusively—yet we all know, and so do they, that the reverse is true.

It is in the nature of things impracticable, that a government should pay for every loss its citizens may sustain by a state of warfare. All such as are merely incidental must be borne by the sufferers.

And, as the Government is not bound in equity to repay losses of this kind, so neither is it a dictate of sound policy that they should do so. Once adopt this practice, and you render yourselves assailable at once. Especially if you have an extensive seaboard, and a maritime foe, you invite him to aggression; you make it his policy to depredate; you give him the strongest temptation to transfer the war from your person to your property; you take from war every thing of a brave and noble character, and make it a mere game of burning and pillage. Surely this one consideration is enough to warn us against sanctioning such a bill as is now before the committee. Refuse to pay such losses, and what will be the effect? The effect will be that the frontier citizen will do his utmost to defend himself and his property. You call in the aid of two passions instead of one. If a man is sure of being repaid for the devastations of the enemy, his only motive to resist them will be his patriotism; but, if he knows he is to receive no in-

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demnity, he will fight not only from patriotism, but from self interest. The gentleman cannot be so unacquainted with the nature of the human mind, as not to perceive the effect of bringing in such a principle to aid the arm of the citizen soldier.

I must now say a few words on the doctrine of retaliation. The gentleman seems to think that the burning of Newark, by the American troops under McClure, was a wanton and improper act; and, in his report at a former session, he charges it on our Government, and maintains that the enemy had a right to retaliate. Sir, I deny his position in toto; I say, and I hope to prove, first, that the destruction of Newark was not a wanton act; and, secondly, that the enemy had not the least right to retaliate it. If the gentleman had directed his views a little farther on this subject, he would have been able to perceive and to trace the same predatory spirit which led to the devastation of the Niagara frontier, prevailing through both our wars with England. In the war of the Revolution, as well as through all the stages of our late contest, they were actuated by the same temper towards us. [In support of this position, Mr. W. went into a series of quotations from the history of both wars, referred to the conduct of the British army under Cornwallis, and when led by the traitor Arnold—to the burning of Falmouth, the ravaging of New Jersey, and the cruelties on board the Jersey prison ship, in which eleven thousand men were said to have perished. He then proceeded to the conduct of Admiral Cockburn at Frenchtown, Havre de Grace, Georgetown, Fredericktown, and Hampton, interposing comments as he proceeded, and arguing, from the whole, the prevalence of a mean, dastardly, malignant spirit of revenge and personal cruelty.] Now, (said Mr. W.) put it to the gentleman from New York to say, after all this series of conduct, from February to May, 1813, whether the destruction of one village, eight months afterwards, could be considered as a wanton act of aggression? No, sir;—no; if the American army, instead of burning the village of Newark, had laid waste with fire and sword the whole Canadian frontier, they would have inflicted an act of retaliation well merited by the barbarities perpetrated at Hampton alone. But was this an act of our government? The Government disavowed the act the moment they heard of it. Was this an act of wanton destruction done for its own sake, and a parallel to the British murders and ravishings in the Chesapeake? It was a purely military movement, necessary to the destruction of Fort George: deliberate notice was sent to the inhabitants, and time allowed them to remove their persons and effects. As a pretended retaliation for such an act, the enemy landed on the 19th, burnt Lewistown, Youngstown, Manchester, and even the little village of the Tuscarora Indians. No notice was given—no time for removal of goods, or even for personal escape; and so far was the injury from being confined even to all these villages, that the whole country was fired and laid waste; they burned, they ravaged every object they could reach; but I cannot preserve a due command of my feelings when I reflect on those scenes. Sir, we find the same thing from '76 to 1815, the same conduct, the same spirit; and, with facts like these within their knowledge, the Committee of Claims did right in denying, as I now deny, all right on the part of the enemy, to waste that frontier on the principle of lawful retaliation, and the consequent right of the claimants on that ground. The law says that, in order to indemnity, it must be shown that the occupation of the property for military purposes was the cause of its destruction. Now, sir, let me put a case. Suppose the enemy in the Potomac, within cannon shot of this city; and suppose one of the houses here was occupied as a barrack for troops, and in a bombardment of the city with red hot balls, that house should with others be destroyed, would the owners have a just claim, under the law, to be repaid its value? No, sir, the

Government would be bound to no such thing. It was not the occupation of the house as a barrack that caused it to be destroyed—the enemy was not to know of such occupation; the house was destroyed with others not so occupied; it was a casualty, and the sufferer must bear his loss.

But the gentleman insists that if the Government is not bound to pay for such losses, we cannot claim to be independent. Sir, I have read to you, from the page of impartial history, some of the acts of pillage and cruelty perpetrated by the enemy in our Revolutionary war; were these losses ever paid? No, sir, the old Congress denied the right of the sufferers to indemnity, and invariably refused to grant any compensation whatever. Was our country, therefore, not independent? Yet the gentleman says we must either pay such losses ourselves, or compel the enemy to pay them, or we are not independent. Sir, we suffered much under the British Orders in Council. Was compensation allowed in the treaty of Ghent? We suffered sorely under the Berlin and Milan decrees. Has compensation ever, to this day, been allowed for those losses? No, sir; and it is very questionable if the nation will go to war to obtain it. Will the gentleman, therefore, maintain that these States are not, at this day, independent? Sir, the thing is not done by any government, nor can the argument be sustained by an appeal to facts. The true rule is, that Government is bound to obtain such allowance, and to make such compensation, if it can be done conveniently. But would the gentleman say that, in order to get the allowance of one million, the whole nation must be plunged into war, at an expense of one hundred millions? In such cases, the demand becomes a question of policy. It was a maxim (attributed, I believe, to Mr. Adams) at one time, in the mouth of every American, "millions for defence, but not a cent for tribute." There is something of honor in such questions. What was the language of President Madison to Cockburn, when he commenced his ravages? Did the President say to him, "Admiral Cockburn, pray forbear; forbear, if you please; if not, we must pay our citizens for the injuries you may inflict." No, sir; he said, "Forbear; if not, we will retaliate." This, sir, is the only note for such an ear as Cockburn's—the dread of retaliation is the only consideration which can hold such an enemy in check.

The gentleman relies much on the merits and sufferings of the inhabitants of the Niagara frontier. Sir, I have much regard for those inhabitants, and, though they are personally unknown to me, I am inclined to believe much of the representations in their favor which have been given by the gentleman from New York; but still, I feel great doubt whether they were sufferers to any thing like the extent they would have us to suppose. I do know that many, who send us the most heart-rending accounts of their calamities, placed themselves voluntarily on the frontier for certain commercial purposes, and I have been very credibly informed that that frontier, generally, received more benefit than injury from being to the extent it was the seat of war. Sir, those people, many of them, could well afford to have their houses burnt, if they received, at such a rate, the public money which was then concentrated, and expended with the most lavish profusion on that frontier.

But on the subject of retaliation, the gentlemen would have us rely on the testimony of a certain British captain of artillery drivers. This gentleman affirms that, in his hearing, General Drummond declared that it was "beneath the British government" to waste the border on a principle of retaliation. Very delicate, indeed!—But let us hear another of these delicate gentlemen. What does Admiral Cockburn tell us? That it was on this very principle that he was ordered to waste and burn and ravage on the Chesapeake. Which shall we believe? Sir, I'll believe neither. What is this but to call a culprit into court to swear off his own accusa-

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tion? Sir, any British officer will tell us that his government is not to blame—is never in the wrong. We can appreciate, very highly, the delicacy of these gentlemen, especially after the scenes at Hampton, in which they made so chaste and honorable a figure; and, no doubt, if charged with those very transactions, they would not only say they were clear of the perpetration of these enormities, but, as I believe, would swear to it. I will believe none of them. I have long been in the habit of supposing that actions spoke louder than words. I ask not, I care not, how a man preaches, unless I know how he acts also; and I do know that the actions of these men were cruel, dastardly, vindictive, and every way abominable.

On these grounds, Mr. Speaker, I am decidedly of opinion that this bill ought not to pass. If it does, it will not only make a destruction of your Treasury, but it will be an act without a parallel in the history of legislation. I will venture to assert that such a law is not to be found within the lids of any code among civilized nations. The gentleman, indeed, says the Emperor of Russia has made a similar allowance to his citizens—subjects I would say—he has no citizens; but the case is widely different from that before us. The damage for which Alexander made allowance was made by his own authority—the burning was his own act. But that for which we are called to empty the Treasury is the act of an enemy. If, indeed, these losses had been occasioned by the act of an American force, acting under legitimate authority, I should say, under my present impressions, pay the demand. But the case is widely different. I was always opposed to the act of 1816—but when it had passed and became a law, the Committee of Claims, so far from impeding its operation, honestly endeavored to carry it into effect, not viewing the claim of the sufferers as a right which the government had been forced to allow, but as a claim of suffering fellow-men to whom relief had been extended as an act of compassion and charity.

I am sensible, sir, that I have detained the House too long; but I thought it was due to the House, to the committee over which I preside, to the gentleman who advocates the bill, and to myself, to state with frankness my reasons for opposing it.

Mr. CAMBRELENG, of New York, said, that, however widely the gentleman from North Carolina differed from him, as to the justice of these claims, he was glad to find there was no difference of opinion as to the atrocious character of the enemy's conduct during the late war. It was impossible to forget the horrors of Hampton and Havre de Grace—the Vandalism here; or the massacre of our countrymen on the Raisin. These were acknowledged to be contrary to the usages of civilized war; and retribution for these losses was due from the enemy, and not from our own government. But the case now before the committee was of another character—one, as he thought, strictly within the rule laid down by the gentleman from North Carolina; that wherever, by military occupation, the property had acquired a military character, it was rendered liable to destruction by the enemy; such he considered to be peculiarly the case on the Niagara frontier. But, on this subject he would quote an authority which could not be objected to—[Mr. C. then read the evidence of General Porter to establish the military character of the frontier generally throughout the war; the houses upon it being almost without exception occupied for public stores, arsenals, barracks, quarters, &c.] There were other depositions, Mr. C. said, all in accordance with this, which it was unnecessary to detain the House by referring to. If ever there was a case of military occupation, this appeared to be completely so. If a government was, in any case, bound to indemnify its citizens for losses, this certainly was one. Mr. C. said he should not contend that government was bound to indemnify its citizens for the va-

lue of all the towns and villages falling within the track of an invading army, nor for all the losses incidental to war; but he should contend that, as far as the ability of the nation extends, it ought to indemnify its citizens for losses occasioned by military occupation; and he did not doubt the ability of this nation to pay all such losses.

With regard to the question of retaliation, he differed with the gentleman from North Carolina. He had never before heard that the burning of Newark was on our part a measure of retaliation. He had always thought that, as the villages on each side of the frontier were occupied by the troops of both nations—and as they could not remain on this frontier during the winter without the use of these villages—they were throughout the war at all times liable to destruction on both sides, as they were absolutely necessary, both to us and to the enemy. It was, he presumed, for that reason these villages were destroyed. The enemy had no such justification for other atrocities. It was doing injustice to our country to attribute the burning of Newark to a motive of retaliation.

Whatever might be the usages of European nations, as to making indemnity for losses, he could not think these rules applicable to our condition—they were better designed for nations surrounded by warlike and powerful neighbors, liable to continual invasions, rendering indemnity almost out of the question, if not impracticable. Our condition was different. In looking forward to future wars, he had no apprehensions of invasion, if the Government persisted in the policy it was now pursuing. Indeed, if the same policy had been pursued at an earlier period, our country never would have been invaded. He could not think that any alarming principle would be established by the bill. Our future wars—the theatre of our future wars, would be carried far beyond our boundaries—they must be upon the ocean. Our country will never be again invaded. The spirit of invasion, and the record of our disgrace, perished together in the flame of Orleans.

Mr. C. hoped the House would now accord to the sufferers by the late war, that relief which had been so long deferred. For seven years these claimants had applied in vain for retribution. In 1817, when a question was debated whether a commission should be established to liquidate these claims, or whether the claimants should be compelled to come by petition before this House, a distinguished member remarked, that the right of petition (in relation to those claims at least,) had become a privilege of having the petition rejected. This opinion was very much objected to by many members, but seven years of vain application to this House must satisfy every one of the justice of his remark. The House had been told there were advantages enjoyed by those residing in the neighborhood of war. Mr. C. said he had yet to learn what advantages could counterbalance the oppressions and pollutions incident to war? What advantage could indemnify the inhabitants of the Niagara frontier, for suffering throughout the war the apprehensions of invasion by Christian and Savage—who were at last abandoned to their fate, and subjected, in mid-winter, to all the horrors of war? I hope, said Mr. C. we shall now administer relief. We have the ability to do so—and the claims are unquestionably just. If the details of the bill go beyond the rule of justice, let it be amended. Mr. C. then moved that the committee rise, report progress, and ask leave to sit again.

The Committee accordingly rose, reported progress, and obtained leave to sit again.

HOUSE OF REPRESENTATIVES—DEC. 28, 1824.

INTERNAL IMPROVEMENT.

Mr. STEWART, of Pennsylvania, said, that, at the last session, he had submitted a proposition, which had for its object the creation of a permanent fund for the purposes of internal improvement; but, owing to the

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Internal Improvement—Credit on Duties.

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press of other important business, it was not then disposed of. He now rose to renew that proposition.

When we advert, said Mr. S. to the flourishing condition of our national finances, as exhibited by the President, in his late message to the House: When we look to the rapid increase of our wealth and resources—the growth of our population—the increase of our internal trade and commerce, and the vast extension of our territory—it must be admitted, he thought, that the period had arrived when it would be proper to appropriate, at least, a part of the ample revenues of the country to its *internal improvement*—connecting the distant parts of this widely extended republic: uniting and binding them together by the strong ties of interest and intercourse. Such a *system*, whether regarded in a commercial, political, or military point of view, was equally important, and he believed its adoption was alike demanded by *national feeling* and *national interest*. He could not better illustrate the importance of this subject, than by adopting the language of the great Father of his country, WASHINGTON, who, more than forty years ago, when recommending the adoption of measures to facilitate an intercourse between the eastern and western states, used this emphatic language: “In my judgment, this is the best, if not the only cement that can bind us together for a great length of time, and we shall be deficient in foresight and wisdom if we neglect it. Our interest is so much in unison with this measure, that nothing but that short-sighted and ill-timed parsimony, and contracted way of thinking, which intermingles so much in our public councils, can counteract it.” To these wise and patriotic sentiments, he thought every liberal and enlightened statesman would cheerfully and cordially respond.

Mr. S. then offered the following resolution:

*Resolved*, That the Committee on Roads and Canals be instructed to report a bill pledging the proceeds of the sales of the Public Lands and the dividends of the United States' Bank Stock, as a permanent fund for the purposes of internal improvement, to be distributed among the several States according to the ratio of representation, and expended on objects to be designated by Congress within or bordering on the States respectively. The said fund, with the interest thereon accruing, to be vested, annually, in United States' or other productive Stocks, until the same shall be required to carry into effect the objects of its appropriation.

On motion, this resolution was ordered to lie on the table, and be printed.

#### DISCRIMINATING CREDITS ON DUTIES.

Mr. TRIMBLE, of Kentucky, rose to offer a resolution, couched in the usual form of an inquiry. It was predicated upon two reports made by the Secretary of the Treasury to the House. He had two objects in view—first, to discriminate between importations made by citizens of the United States, and all others; and, second, to procure a repeal of such laws as allow credits for duties bonded upon merchandise imported by aliens, or on foreign account. The discrimination was desirable for the sake of the statistical fact, as well as for other purposes; and he saw no reason why we should allow alien importers to bond their duties, on long credits, without interest, when it was well known our native merchants were seriously injured by this extension of the credit system in favor of foreigners. In the printed document, No. 13, the Secretary says:

Whatever motives there may be for allowing a credit for duties to our own citizens, no sufficient reason is perceived for continuing it to foreigners, who are not domiciliated in the republic. A discrimination, in this respect, between citizens of the United States and others, would tend to confine the commerce of the nation to its own citizens, and would aid in restraining the practice of shipping merchandise to this country, upon con-

signment, for foreign account, which has hitherto been found to interfere with the interests of our own regular merchants.”

This opinion, from the head of the Treasury Department, would require nothing to enforce it; and whatever objections might exist against the total abolition of the credit system, there ought to be no opposition to the abolition of so much of it as applies to aliens. It would appear, he said, from the two reports alluded to, that the duties on credit, as bonded in 1823, amounted to twenty-three and one half millions, in round numbers, and that the interest thereon, at six per centum per annum, if allowed, would amount, in round numbers, to \$1,150,000. The total amount of imposts bonded for payments on credit, from 1789 up to 1823, was stated at 527 millions; which, upon the ratio of interest for the year 1823, (as before stated,) would give a grand total of \$26,000,000. But, as the merchants pay no interest on these bonds, it might be considered as a donation of that amount. He had been told by intelligent merchants, one of whom was a member, that it would be safe to rate the importations made by aliens, and on foreign account, at one-fourth part of the total amount, and, of course, that the Treasury had, in effect, been making advances, year after year, to alien importers, which, in the aggregate, amounted to six millions of dollars; a sum nearly equal to the whole amount disbursed in the payment of Revolutionary pensions. And thus it appears, that a corps of foreigners have been quartered upon the Treasury as pensioners, under the name and character of alien importers, while our own people are idle for want of business. We can easily find two of our own men ready to do the work of one; and we must needs pension foreigners to help us, and aid them in superseding our own native merchants in our commercial operations, and then allow them to pocket their pensions, and carry off the profits of the trade. He hoped the House would see this matter in its proper light, and that the resolution which he was about to send to the Clerk's table, would be read and passed.

Mr. T. then submitted the following resolve:

*Resolved*, That the Committee of Ways and Means be instructed to inquire whether any, and, if any, what, provision ought to be made by law to discriminate between importations made by citizens of the United States and others, and whether it is or is not expedient to repeal all laws allowing credits for duties upon merchandise imported by aliens, or on foreign account.

The resolve was agreed to.

Mr. BRECK, of Penn. moved to take up the resolution offered by him some days since, on the subject of the claims of the Marquis de Maison Rouge, with a view to its modification. The motion was carried—ayes 74, noes 37.

Mr. BRECK modified the resolution by striking out the last clause, which inquires respecting orders given by the Executive for the defence of certain suits by the Attorney General of the United States.

The question recurring on the resolution thus modified, calling simply for copies of any letters which may have been addressed by the claimants to the Executive—

Mr. BRENT, of Lou. objected to it, as calling on the President for a private letter.

Mr. BRECK explained, and contended that the letter was strictly of a public nature. All he wished was to have an authenticated copy of it laid before the committee. A private copy lay in his own desk, but this could not be received as evidence by a committee of this House.

Mr. COCKE objected to the resolution as unnecessary, as the paper might be authenticated in another way, without calling on the President on the occasion.

Mr. HEMPHILL suggested, as an amendment, to add the clause, “if, in his opinion, it shall not be improper to communicate the same;” and in this form the resolution was adopted.

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Taxation of Military Lands—Niagara Sufferers.

[H. of R.]

## TAXATION OF MILITARY LANDS.

Mr. WICKLIFFE, of Ken. moved the following:

*Resolved*, That the Committee on the Judiciary be instructed to inquire into the expediency of exempting, for a limited time, from taxation, by the Territorial Governments, the military bounty lands which have been patented to, and not sold by, the original claimants, or their heirs.

Mr. WICKLIFFE said, that his attention had recently been called to the fact, that, in one territory of this country, four hundred tracts of land had been brought into market and sold for taxes; and, in reflecting upon such a state of things, he was convinced, that the power claimed by the territorial governments to tax the military lands within their limits, was one great cause of the facility with which speculators obtain possession of rights to land which were originally intended to reward the war-worn soldier for his toil. The original grantee, hearing of tax upon tax, was unwilling and unable to pay so much on his land, and was thus compelled to sell his right to it. The object of the resolution he now proposed to the notice of the House, was to exempt these lands from taxation for a limited time.

Mr. BRENT, of Louisiana, thought that the remedy proposed by the gentleman from Kentucky ought to be applied to the case referred to, but that the Committee on the Public Lands, and not that on the Judiciary, was the proper one to which the resolution should be sent, and he moved such reference as an amendment.

The motion was lost.

Mr. COOK, of Illinois, thought the resolution was important, and required some reflection before it was acted upon. He therefore moved to lay it on the table.

This motion also was lost.

Mr. TAYLOR, of New York, then rose, and observed, that the value of such a measure as that proposed in the resolution, was considerably diminished by the lateness of the period at which it was brought forward. Could it have gone into effect when the soldiers' warrants were first issued, it would have been of great utility—but at this time, only a small proportion of the military lands was in the hands of the original grantees. Nevertheless, if the discrimination which it was the object of this resolution to make, could be accomplished, in relation to the small portion that yet remained, it should by all means be done. As to that portion of the military lands which had passed into the hands of other parties than the soldiers or their heirs, he saw no reason why they should be exempted from taxation more than other lands. Nor did he perceive why the lands of non-residents should in this respect be distinguished from those of resident owners. The Territorial Governments must be supported in some way, and real estate was the chief resource to which resort must be had for that purpose. The patents, he believed, were now, for the most part, old; but when they were first issued, the lands were for five years omitted to be taxed. At the time the State Constitution was granted to Illinois, the Legislature was restrained from taxing the bounty lands for three years, after the organization of her Government. Mr. T. observed, that his own wish had been to extend the restriction to five years, and he had introduced a motion to that effect in committee of the whole; but when the bill for framing that constitution came into the House, the proposition was rejected, and it was on his motion that it had been fixed at three years, and passed in that form. A similar restriction was imposed when Missouri was admitted, and, from all he had learned, he believed the prohibition had had a beneficial effect. Arkansas was now, he believed, the only territory in which bounty lands were to be found, and he presumed it was to that territory that the remarks of the gentleman from Kentucky (Mr. Wickliffe) had reference. He knew that in many cases large and valuable tracts of land had been sold to pay a comparatively small amount of tax; and

though he had but a faint hope that, at this time, much could be effected in a way of remedy, he had no objections to the inquiry proposed.

Mr. COOK coincided in opinion with the member from New York. It had been his lot to reside, for a large part of his life, under a territorial government; and he could with truth declare, that that form of government was more expensive than a state government. The territory of Arkansas had been organized only three years, and it had officers to support, and public expenses to endure, which fell with a heavy weight upon its sparse and scanty population. But little of the public lands in that territory had yet been sold, and the most of it was held by speculators. If the measure proposed by the resolution went into effect, it ought to be restricted to those lands, the patents for which had not been issued, and which were not yet subject to taxation, and should not extend to those which had passed into other hands than the grantees. He considered it as unfair to exempt the lands of non-residents, more than of those who resided within the territory. To a bill as broad as the resolution he should object, and, if introduced, he should certainly oppose it: and, with a view to having the terms of the resolution narrowed, he moved to lay it on the table.

Mr. WICKLIFFE observed, in reply, that he did not mean by the measure he proposed, to do any thing to destroy the rights of the territorial government, or prevent their support—his sole object was to furnish, to the soldiers who still held their lands, an inducement which might operate to prevent their parting with them to speculators. He was not able to state how many warrants remained unsold, or how many were not yet issued. But one thing he did know, that the soldiers whom it had been the intention of Congress to reward, were in general ignorant of the condition of the land they held; and if the territorial government were suffered at will to lay taxes on the lands, the poor soldiers would be compelled by necessity to sell them, as so many others had already done, for any thing speculators chose to allow them. As to the direction the resolution might take, he felt indifferent—he cared not to which of the committees it went—his sole object was, that an inquiry should be made.

The question was then put on agreeing to the resolution, and decided in the affirmative.

So the resolution was adopted.

## NIAGARA SUFFERERS.

On motion of Mr. TRACY, the House went into committee of the whole on the bill "further to amend the act authorizing the payment for property lost, captured, or destroyed, by the enemy, while in the military service of the United States, and for other purposes."

Mr. P. P. BARBOUR said that his design in rising was not to oppose the details of the bill now before the committee, but to offer a proposition superseding them altogether. He wished to test the sense of this House on the principle of the bill, and with this view he moved to strike out the enacting clause. It was not his intention to detain the committee by any prolonged discussion; he wished to direct them at once to the principle of the measure, and, in doing so, he should submit to their consideration some general principles of national law, and a few facts which he thought had a bearing on the question before them.

It had been his fortune to be a member of this House when the subject of these claims was first brought before Congress, and he had at that time borne some small share in discussing it. He now begged leave to recall some of the considerations he had at that time urged, and in doing so he should be very brief. The great question to be settled is this—What is the nature and character, and what is the extent, of the obligation which a whole community owes to its individual members for losses sustained during a state of warfare from



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acts of the enemy? (for in this case a broad distinction was to be preserved between acts of an enemy and the acts done by the authority of our own Government.) Now, said Mr. B. it seems to me that, as to the obligations of the Government in such a case, there can be but one sound general principle assumed. Whenever a war is declared, the immediate consequence of such declaration is to place every individual of each Government, together with the property of every individual of each, in a relation reciprocally hostile to each other; and, according to the original principles of international law, each nation had a right to do to the other all the harm it could, indiscriminately, without respect to any distinction of persons or property. But such a principle has long been abandoned by all civilized nations—and the rule which has by general usage been substituted in its place, seems to be that, as to persons, non-combatants shall be as exempt from danger or injury as if the two nations were in a state of perfect amity—and with respect to property, unless in certain extraordinary circumstances, that it shall not be subject to destruction or injury unless it be immediately connected with and used for the purposes of war. From these doctrines of international law, as held by all civilized nations, it results, as a general principle, that, for all the losses which the people under either Government sustain in consequence of the declaration of war, they have no demand upon their Government for indemnification, because all share in one common fate. The law presumes a tacit stipulation among the members of a community, that they shall share its fortunes whether of good or evil; but if, by any act of the Government, property which otherwise would have remained in a state of safety, is withdrawn from its pacific character, under which it was not liable to injury by an enemy, and invested with a warlike character, a character which exposes it as an object of hostility, the Government shall be bound to indemnify the owner for any damage it may sustain in consequence of such change of character. This rule will apply to property of every description. If a house, for example, be taken by the Government, and made a place of deposit for troops or for military stores, and while thus occupied is destroyed legitimately by the enemy, so that that occupancy was the cause of its destruction, the Government is bound—the individual who owned the house has suffered from a new character induced upon his property by the act of the Government.

On this principle, the act of 1816 directed that when such a state of facts should be proved, the amount of their loss should be paid to those who suffered under such circumstances. But are we to go farther? Are we to allow claims for all the ravages which an enemy may perpetrate contrary to the law of nations? Surely not. I can, indeed, suppose a case where a whole extensive district of country is laid waste by an incursion of the enemy, and all its inhabitants reduced to ruin. How far such a case might address itself to the sympathy of the Government—what appeals it might make to compassion and humanity—how far it might melt our feelings or call for our charity, is a question wholly different from the question we are now arguing. We are now speaking of what has for distinction's sake been called a perfect obligation. Such as might arise from the case I have supposed, can only amount to what is called an imperfect obligation. A man is under such imperfect obligation to give to any miserable fellow creature whom he can without impropriety relieve. But he cannot be forced to do so. There exists nothing like that sort of obligation by which a man is bound to pay his debts. The appeal, in one case, is to liberality, to pity, to compassion; in the other case it is to strict and naked justice. The difference is immense. The one obligation is tangible—it can be measured—it can be reduced to a fixed and definite limit. The other is of a nature which can neither be limited nor measured—it

eludes our scrutiny—it is a thing of feeling merely. Now, what one individual may justly force another individual to do, he might, with the same justice, force a Government to do—but, as its sovereignty interposes to render this impossible, the Government ought, and is bound, to do it of its own act. In the case of a perfect obligation, there is no choice, no limit, or restriction; the thing must be done, and to the whole extent of such obligation; but, in case of an imperfect obligation, we may pause, we may inquire into circumstances, we may consider our means, we may listen to the dictates of policy, and act as we make up our free choice upon the whole case when considered. But this bill proceeds on the principle that the Government is bound to make compensation, and it is on that principle that I wish to try the sense of the committee by a motion to strike out the enacting clause of the bill. I may illustrate my idea by an example taken from the municipal law. Suppose a case of larceny; is the Government bound to pay the loser? Certainly not. But it is bound to punish the thief, if it can catch him. So, if a foreign nation has inflicted lawless injury on a citizen, his Government is bound to punish that nation, if it can, but not to indemnify the citizen out of the public chest. [Here Mr. Barbour quoted the bill, and urged and enforced the objection which had yesterday been made to it by the gentleman from North Carolina, (Mr. Williams,) viz: that it would provide for payment, should a house have been occupied but a night upon a march, in the first week of the war and not destroyed by the enemy till the last week of it.] The principle I advocate would repudiate such an allowance. The occupancy alone removed the house from its ordinary condition, and, by giving it a military use, rendered it liable to attack and destruction, on the principles of civilized warfare. But that occupancy has ceased—the house returns to its ordinary character—it is now not lawful to destroy it, and if it is destroyed, the Government is not bound to pay for it.

On the question of retaliation, I shall offer no argument, because I consider it as a question wholly beside the bill—it is a question not now to be discussed. The bill does not propose to indemnify because the property was, or was not, destroyed on the ground of retaliation—but because it was destroyed because occupied in the service of the United States.

Let us now see what has been done in this matter. In 1816, Congress appointed a Commissioner who was authorized to examine testimony on the claims, and if it was proved that the buildings destroyed were used as a place of military deposit, he was authorized to repay their value. The Commissioner held, that buildings, occupied as barracks, were included within the act. The acts of this Commissioner were submitted to Congress in 1817—and, by a subsequent law in 1818, they were referred to the Third Auditor of the Treasury, who was to decide upon the claims under the same law as the Commissioner had done. These laws, one would think, went far enough. [Here Mr. B. again recapitulated them.] How much farther are we to go? Sir, if I distinctly perceive the distinguishing features of the present bill, they are these two, first, we are to pay for the buildings if occupied at any time during the war for public services; and, secondly, we are to pay for one half of all personal property lost or destroyed. The latter is certainly a matter too loose and fluctuating for this kind of summary legislation; and, as to the former, I have already shewn that the laws already passed have gone, in all reason, far enough.

No, sir; the only ground on which these claimants can stand before us is that of claimants upon our liberality—a subject difficult to argue, because, in considering it, we quit the field of perfect obligation, and go into that which is imperfect and uncertain: it is, in truth, illimitable. Consider to what extent such an appeal runs. Here is a whole region of country which has suf-



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ferred by unlawful aggressions of the enemy. If you allow this as giving a right to indemnification, you must go through; there is no stopping place; all who have suffered may claim; and all they have lost must be made up to them. Permit me, said Mr. B. to quote, on this subject, a writer who indulges in a very considerable liberality in treating the case. [Here he quoted a writer on national law, who, after allowing that it is a case of great difficulty, concludes the whole matter with determining that Government must take a view of all the circumstances, and act as it finds most expedient.] Suppose, for farther illustration, that we had no treaty stipulation on the subject of the negroes of the South, which were carried off during the war—and I wish, after all the discussions on that matter, it may not turn out to be a treaty stipulation more in form than in effect—is this committee prepared to say that Government would be bound to indemnify the losers for every negro—I (I had almost said stolen)—during the war? Sir, the loss would be immense. Every gentleman knows that if a few circumstances, during that war, had happened otherwise than they did—and had not the negroes been penetrated with a horror of the refuge which was opened to them by the enemy, they might have carried off thousands and millions of slaves. Indemnity for these would sweep away a whole year's revenue.—(I hear a gentleman near me say two or three years.) Sir, I have purposely referred to this subject of the negroes, lest it should be said that I was obdurate and insensible to one class of sufferers and one species of losses, but all alive to another nearer home, and for the express purpose that I might thus publicly declare that, were a claim, like that provided for in this bill, set up by the losers of negro slaves, I should be just as much opposed to it as I am to this, and for the self-same reasons.

The question of policy I need not agitate—it has been frequently and powerfully pressed upon the committee. My object has been to show that the fundamental principle of the bill is wrong; that this is not one of those appeals to sheer and abstract justice, in which the maxim applies, "*fiat justitia, ruat cælum*,"—but that it is a case which, if it has any claims, applies itself exclusively to the principle of sympathy. In that point of view it is certainly not for me to dictate to this House. If, on the whole case, they shall choose to award any thing in way of mitigation for these losses, it is very well, but that is not this bill. The bill, I do maintain, goes further than any Government ever went before, or ever can go, without danger of ruin: it runs out into consequences which are beyond our utmost sight. Consider what may not be said to be either the direct, or indirect consequences of war. The scholar is driven by it from his books, and flies to arms—the husbandman leaves his plough in the furrow—all classes of the community are thrown into a state of greater or less derangement—all these are the effects of war; and the act of Government is its immediate cause. An embargo, for instance, is laid—the merchant's obligations come upon him while his capital lies unemployed, and his ships are rotting at the wharves. The farmer loses his foreign market, and his crops are rotting in his barn the injury is every where—you can never indemnify all who suffer—and why must one small class be preferred before all their brethren in calamity? No, sir, unless the suffering has been directly occasioned by the act of Government, in using private property for military purposes—there is no claim, but a claim on our compassion. The bill recognizes a demand upon our justice; and as such I am fundamentally opposed to it. I move to strike out the enacting clause.

Mr. BRADLEY, of Vermont, said he did not rise for the purpose of extending the debate, nor should he have risen at all, had the principles by which he should be governed on this occasion been enunciated with sufficient distinctness. He cordially agreed with the learn-

ed gentleman from Virginia, on most points, but thought he had not fully explained the reason of the distinction he had made. Mr. B. said he was not aware of any instance in which a Government was bound to indemnify for a belligerent act, considered simply as such, and most of the difficulty which had occurred arose from cases where property was destroyed by the enemy, when in possession of the Government. But Mr. B. begged the committee to remember that no difference existed in these cases, whether the property was destroyed by the enemy or the Government itself. And the reason was this: every well regulated Government, when it takes the property of the citizen, is bound to pay for it; and if it is taken for a temporary use to return it in a state as good as it received it. When, therefore, it is destroyed by the enemy, the Government is deprived of the power of performing the moral obligation under which it labors, and can only make compensation in money, which it is bound to do. Nor can it take advantage of the same defence, as an individual, for the non-performance of its contract. For the private lessee defends on the ground of inevitable necessity—a necessity against which he could not by possibility defend—but the Government being entrusted with the whole power of the nation for its defence, is not permitted to avail itself of this excuse. For this reason, Mr. B. said, his vote would be entirely regulated by the proof how far the property in question was in the actual possession of the Government; and, if it was not in such possession, he conceived the petitioners had no greater claim than every individual subjected to the vicissitudes of war.

Mr. TRACY, of New York, then took the floor, in support of the bill, and had been addressing the House for some time, when,

On motion of Mr. WRIGHT, of Ohio, the Committee rose; and, having obtained leave to sit again, The House adjourned.

IN SENATE.—WEDNESDAY, DECEMBER 29, 1824.

The Senate, according to the order of the day, proceeded to the consideration of the bill "to abolish imprisonment for debt."

Mr. JOHNSON, of Kentucky, remarked that this bill had been very maturely digested by the committee, and greatly modified from the bill of last session, with the view of obviating objections made to it at that time. He did not know that any opposition would be made to it now, on general principles; but if any were intended, he should propose to take it up at a future day for general discussion; at present he hoped the investigation would be confined to its details, for which purpose he moved that it be taken up by sections.

This was done, and some verbal amendments made. The bill having been gone through,

Mr. COBB moved to strike out the following sentences from the fourth section, viz:

"But, after the return thereof, the defendant or defendants may contest the allegation of the said oaths or affirmations, before the court in which the said suit or action is instituted, in such form as the court shall prescribe. And if the court shall be of opinion that the said allegations are not well founded, it may make an order, to be entered on record, discharging the said bail or security from his or their suretyship."

This motion gave rise to a debate of near two hours' duration, embracing occasional remarks on general principles, but chiefly involving questions of practice and proceeding in the courts of the different states, &c. &c. The motion was supported by the mover and by Mr. MILLS, at considerable length; and was opposed with much earnestness by Messrs. JOHNSON, of Ky. BARBOUR, and VAN BUREN. Mr. BRANCH made also some remarks on the question of modification; and then The bill was postponed to to-morrow.

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Georgia Militia Claims.

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HOUSE OF REPRESENTATIVES—Dec. 29, 1824.

## GEORGIA MILITIA CLAIMS.

Mr. THOMPSON, of Georgia, according to notice, moved to discharge the committee of the whole from the further consideration of the report of the Committee on Military Affairs on the claim of that state for compensation for services performed by her militia, in 1793-4.

The motion was carried—ayes 63, noes 56.

Mr. THOMPSON then moved to recommit the report to the same committee, with instructions "to report a bill making an appropriation for the payment of the said claims; the appropriation to be conformed to the report of the Secretary of War, made to this House upon the subject of those claims, in the year 1803, and to embrace each class of claims respectively, as described in that report."

In support of this motion, Mr. THOMPSON rose, and addressed the House as follows:

"It becomes my duty, said Mr. T. as a Representative of the people of Georgia, to urge upon the attention of the House the consideration of the claim which is exhibited in the Report now before you. It is with some hesitancy I make this attempt, not because I doubt the strength or fairness of the claim, but because so just a claim has been so long neglected by the United States. Unused, as I am, to address the ear of this House, and notwithstanding the embarrassment under which, (I am conscious,) I in some sort labor, I dare believe that, if I am so fortunate as to have the indulgence of an attentive hearing, for a few minutes, I shall be able to satisfy the House, not only of the justness of these claims, but that they ought to be paid by the United States.

It may be thought that I have, in the prosecution of my object, to combat prejudices which are, perhaps, supposed to exist against these claims, in consequence of the several rejections of them by committees of this House, to whom the subject has been heretofore referred. No, sir, I will not insult this House by supposing that such rejections have dictated to them a decision upon this subject. I intend no disrespect to the committees who have heretofore reported against these claims; on the contrary, I cherish towards the gentlemen who composed those committees, sentiments of proper respect; indeed, I anticipate, with some confidence, that some of those gentlemen will review their decision upon this subject. If such rejections, however, are considered as amounting to an argument against these claims, in reply to such argument, I will only say, (and I presume it is admissible to say,) that the fact of the very favorable reception these claims have heretofore met in the Senate, together with the several reports made to this House, favorable to the claimants, should be received as a countervailing argument. The only ground upon which the Committee on Military Affairs found their rejection of these claims, is the assumption that these claims were adjusted by the Treaty of Cession entered into between the state of Georgia and the United States, on the 24th day of April, 1802, which is a virtual admission that they were originally just. If, on a full investigation of this subject, it shall appear to the House that the expenses which were consequent on the services upon which these claims are predicated, were not incurred by Georgia, then it will be acknowledged that they do not come within the description of expenses referred to in the Treaty of Cession, as that treaty referred distinctly to expenses which were incurred by Georgia. If they do not come within that description, they could not have been adjusted by that treaty. In the investigation of this subject, I propose to show to the House, that the Governor of Georgia, when arranging the defence of that state, (by which these claims were created,) acted under the authority and control, and as the agent of the President. If I succeed in this, it will be conceded by all, that the United States were bound to pay the expenses

which were incurred during the continuance of such agency. I propose to shew, also, that the United States are bound by constitutional principles, to defray all expenses incurred, (subsequent to the adoption of the Federal Constitution,) by military operations necessary to the defence of an individual state; and that, under the operation of the Constitution, an individual state cannot be charged with such expenses.

And, finally, that the state of Georgia did, prior to the adoption of the Constitution, incur expenses to a much greater amount than the sum stipulated in the Treaty of Cession, which expenses come much more properly within the description of expenses referred to in that treaty, than these militia claims, which were created subsequent to the adoption of the Constitution by Georgia. If I succeed in either of the two last propositions, the motion now pending before the House must prevail. These militia claims are founded upon services alleged to have been rendered to the United States, in the years 1792, 3, and 4, by certain detachments of the militia of Georgia, in defence of that state, against the Creek and Cherokee nations of Indians. At that time, Georgia presented to several warlike tribes of hostile savages, a thinly inhabited frontier of about four hundred miles extent; those savages had long cherished a hostile disposition towards the infant settlements of Georgia, and had frequently, before that period, indulged their savage thirst for blood, by desolating those young settlements, and butchering the defenceless inhabitants. At length, excited by their hope of plunder, and fired with jealousy and rage, by the artful representations of a few designing, discontented chiefs amongst them, the Creek Indians, especially at the commencement of the period to which this inquiry is directed, attacked the frontier settlements of Georgia, with such fury, as seemed to threaten a total destruction of those settlements. The Governor of Georgia represented to the President of the United States the then critical situation of that state, which representation was supported by satisfactory evidence, that murders and depredations had already been committed on the defenceless frontier inhabitants—and in consequence of such representation, the Secretary of War, on the 27th day of October, in 1792, wrote to the Governor of Georgia, which communication contains this unequivocal passage. "If the information you may receive, shall substantiate, clearly, any hostile designs on the part of the Creeks against the frontiers of Georgia, you will be pleased to take the most effectual means for the defence thereof, which may be in your power, and which the occasion may require." Thus, the Executive of Georgia was clothed with full discretionary powers, and was constituted the judge of the necessity of calling out the militia and of the force necessary to be employed. And in the exercise of such discretionary powers, we present to your conclusive evidence, that several detachments of the militia of Georgia, were ordered into service, for the defence of the frontiers of Georgia, against an enemy common to the United States. The evidence on which the claimants rely for the support of their claims, is embodied in documents printed under an order of the House, and laid on our tables yesterday. The House will there find the correspondence between the Secretary of War, in the year 1793, and the then acting agent for the supply of the troops in Georgia, which shows that the agent had caused rations to be regularly issued to the militia, who now claim compensation for their service. And the report of the Secretary of War, made to this House upon this subject in 1803, informs us that regular pay and muster rolls, showing the service of these militia, have been received at that department under the direction of the President of the United States.

The evidence submitted must, I think, satisfy the House, as it has the Committee on Military Affairs, that the militia did perform the service for which compensa-

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tion is now asked; and the amount due is not a matter of speculative opinion, for the estimates prepared and forwarded by the then acting agent for the War Department in Georgia, and now on file, ascertains the precise amount. Then, the service was performed. The individuals who performed it were, therefore, entitled to compensation. Such compensation has not yet been made, but is now due, and it is due from the United States; because, the Governor of Georgia, when arranging the defence of that state, acted under the authority, and as the agent of the President. The service was, therefore, rendered to the United States, especially as it was against a common enemy. Consequently, the United States are bound to pay the expenses which were incurred by that service. But I contend that the United States are bound, by constitutional principles—principles perfectly independent of any agency which the President may have had in arranging the military defence of Georgia—to pay these claims.

The state of Georgia, on entering into the confederation, by the adoption of the federal Constitution, transferred the power she then had, as a separate, distinct, and independent government, of making war and concluding peace, and, thereby, became a member of the American Union: as a member of the Union, she was entitled to the protection of the United States; and such transfer of her sovereign, independent powers, imposed on the United States the necessity of defraying all expenses incurred by the military operations necessary to her defence, especially as the defence of an individual state is the defence of the Union. And, although the Constitution has committed the defence of the country, generally, to the United States, yet the right is reserved to the States, respectively, to defend themselves under particular exigencies. This reservation is incorporated in the tenth section of the first article of the Constitution, in these words: "No State shall engage in war unless actually invaded, or in such imminent danger as will not admit of delay." A state may, therefore, when actually invaded, or when in such imminent danger of invasion as will not admit of delay, constitutionally engage in a war against the invader; and the exercise of this reserved right, by an individual state, constitutes the Executive of such state the constitutional agent of the United States. What were the exigencies which authorized the military arrangements made for the defence of Georgia? They were the same which induced the President to clothe the Executive of Georgia with full discretionary powers, by the Secretary's letter of the 27th of October, 1792, before alluded to—the same which induced the President to say to the Governor of Georgia, by the Secretary's letter of the 10th of June, 1793, "the state of Georgia being invaded, or in imminent danger thereof, the measures taken by your Excellency may be considered as indispensable: you are the judge of the degree of danger and of its duration, and will, undoubtedly, proportion the defence to exigencies. The President, however, expresses his confidence that, when the danger which has induced you to call out so large a body of militia shall have subsided, you will reduce the troops to the existing state of things." (Here, let it be observed, that this letter not only confirmed, but renewed the powers given by the previous letter.) And the Secretary's letter, of the same date, addressed to the Governor of South Carolina, acknowledged that the President had received authentic information of the unprovoked and cruel outrages of the Creek Indians upon the frontiers of Georgia. I presume it is admitted by the House, and that it will not be denied by any one, that the state of Georgia was invaded, and that the danger of a still more serious invasion was daily increasing. The Governor of Georgia, therefore, when arranging the defence of that state, exercised a two-fold power; for the power which he exercised under the authority, and as the agent of the President, he had a right to exercise, indepen-

dently, under the constitution, as constitutional agent of the United States. Will it be denied that the President did assume the direction and control of the military arrangements made in the defence of Georgia? Why, then, the Secretary's letter of the 27th of October, before alluded to? Why did the President, by the Secretary's letter of the 30th of May, 1793, addressed to the Governor of Georgia, restrain offensive expeditions into the Creek country? Why did the President, by the Secretary's letter of the 10th of June, before alluded to, approve of the measures adopted by the Governor of Georgia for the defence of that state, acknowledging that he was apprized of the large number of troops ordered into service for that purpose? And why the Secretary's letter of the same date, addressed to the Governor of South Carolina, requesting that state to aid in the defence of Georgia? But if you deny (what I am sure you will not) that the Governor of Georgia, when arranging the defence of that state, did act under the authority, and as the agent of the President, will you say that the expenses which were incurred by the military arrangements made in defence of Georgia, where chargeable upon that state, because the Governor, when arranging the defence of that state, exercised constitutional powers independent of the President? What! an individual state, a member of the Union, under the operation of the federal constitution, chargeable with expenses incurred by military operations necessary to its defence against an enemy common to the Union! If so, to a state situated as Georgia was then and is now, the Union would not only be perfectly oppressive, but it would be a curse. This right was reserved to the states, because of the anticipated necessity of exercising such a power in cases of emergency; and, notwithstanding Georgia was compelled to exercise this reserved right, she was, nevertheless, at that time, entitled to the protection of the United States; for, by the fourth section of the 4th article of the constitution, the United States guarantees to each individual state protection against invasion. With the idea of protection against invasion, I am necessarily compelled to associate the idea of an exertion of military force; and an expenditure is inseparable from such an exertion; then, as the constitution guarantees to each individual state protection against invasion, and reserves to the states, respectively, the right to defend themselves under particular exigencies, and as the exigency occurred which authorized Georgia to exercise this reserved right, it follows, of necessity, irresistibly follows, that, whether the Governor of Georgia, when arranging the defence of that state, did act under the authority, and as the agent of the President, or as constitutional agent of the United States, or in the double capacity of agent of the President and constitutional agent of the United States, the United States are morally and constitutionally bound to pay these claims. The constitutional principle which I have laid down and attempted to elucidate, is, as it seems to me, so clearly fundamental, that any additional remarks by me, on this part of the subject, would chance to be superfluous, and I appeal to the great constitutional lawyers of the House, not only for the correctness of this principle, but to aid me in support of it.

I anticipate that it will be said, that the Secretary's letter, of the 19th of July, 1793, addressed to the Governor of Georgia, withdrew from the Executive of that state the power previously given by the President. Be it so: the evidence submitted to you shows that the frontiers of Georgia were still pressed by a murderous savage foe. Yes, sir, defenceless females were then flying with their helpless children from the Indian scalping knife; driven by a storm of savage war, they were even then, all shelterless, forlorn, and destitute, wandering through the gloom of night, or, guided alone by the blaze of the humble cottage, fell an easy and unresisting prey to the ruthless savage. The necessity which

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called the militia into the field, sir, as a direct consequence of your policy, was greatly increased; it was obviously the policy of Georgia, and her safety required that the war should be carried into the enemy's country; but, when it was reasonable to expect that the President would authorize such necessary retaliatory measures, the Secretary of War, by letter of the 30th of May, 1793, before alluded to, informed the Governor of Georgia that, "from considerations of policy, at that critical period, relative to foreign powers, and the then pending treaty with the Northern Indians, it was deemed advisable to avoid, at that time, offensive expeditions into the Creek country." If Georgia had been permitted to carry the war into the enemy's country, long ere the conclusion of that war those bold intruders would have been so severely chastised, as to have brought it to a speedy termination, and thereby have saved much expense and bloodshed, and given perfect security to the state. But the President exercised a controlling power, and your policy made it necessary that Georgia should bear the evils which resulted from a protraction of the war, and she submitted to the sacrifice. This submission courted that desolating tempest of savage depredation which laid waste the frontier settlements of Georgia. It, therefore, became imperiously the duty of the Governor of Georgia to continue the exercise of his constitutional powers in defence of that state. And now, when Georgia has submitted to the sacrifice, when she has shed her blood to subserve your policy, will you say that the militia, who were constitutionally in service—who were in service, in fact, under the control and direction of the President of the United States, and whose service your policy made absolutely indispensable, have no just claim upon you? It is impossible—you cannot! By a letter addressed to a committee of this House in the year 180 , Mr. Lincoln, then Attorney General of the United States, expressed an opinion that these claims were finally adjusted by the treaty of cession between Georgia and the United States; which opinion was founded upon a stipulation in that treaty, which bound the United States to pay to the state of Georgia one million two hundred and fifty thousand dollars, "as a consideration for the expenses incurred by that state (mark the expression!) relative to the ceded territory;" for he viewed these militia claims as within the description of expenses referred to by that treaty. Yet he did not recollect, when acting as a commissioner on the part of the United States, on that occasion, whether the commissioners on the part of Georgia considered these claims as satisfied by the treaty; nor did he recollect what were the particular expenses referred to; he could only state his impressions, which were, that these claims were finally adjusted by the treaty.

Mr. Lincoln's construction and impressions were bottomed upon the erroneous supposition, that these claims originally formed a debt against the state of Georgia. Sir, Georgia never did acknowledge them as forming a debt against her, nor can any legislative act of the state be found which authorized the service; neither has Georgia ever, directly or indirectly, assumed to pay these claims. She always viewed them, and properly too, as originally forming a debt against the United States. In opposition to Mr. Lincoln's reasonings and mere impressions upon this subject, we have the solemn and positive declaration of two of the commissioners on the part of Georgia. They say that "the militia services, which are the basis of the present application, were not at all contemplated as a part of the consideration referred to in the articles of cession." Will you reject the evidence of the Georgia commissioners because of their supposed identity of interest with that state? Why then admit the evidence of Mr. Lincoln, who stood in the same relation to the United States? If you admit the evidence of Mr. Lincoln, you are bound to admit the evidence of the Georgia commissioners. If you admit the

evidence of Mr. Lincoln and the Georgia commissioners, you array the solemn and positive declaration of two highly respectable individuals against the reasonings and mere impressions of a single highly respectable person. Thus, admitting the evidence of each of those commissioners, the scale greatly preponderates in favor of the claimants, and the mind rests perfectly satisfied that these militia claims were not at all contemplated as a part of the consideration referred to in the treaty of cession. Is it asked, what then constituted the expenses referred to in the treaty of cession? If the fact is established, as I am sure it is, that these claims ought to have been paid by, and are now due from the United States, why ask such a question? But, lest a want of information upon this particular point should seem to furnish an objection to the admission of these claims, I will trouble the House with a very brief detail of some of the circumstances which induced perhaps the principal part of the expenses referred to. This, however, cannot be considered as important, because the expenses which grew out of the military arrangements made in defence of Georgia, were incurred by the United States; for, whether the Governor of Georgia, when arranging the defence of that state, acted under the authority and as the agent of the President, or as constitutional agent of the United States, the United States are bound to pay the expenses incurred, as, by the Constitution, the United States guaranties to each individual state protection against invasion. The expenses which were incurred by the military operations in defence of Georgia cannot, therefore, be viewed as within the description of expenses referred to in the treaty of cession, because they were not incurred by that state. This, however, is attempting to discuss again a point which is already too clear to admit of elucidation. In giving the promised detail, a critical statement of the items to the precise amount, will not, I presume, be expected at this time, under existing circumstances. In the year 1787, the Legislature of Georgia passed an act, directing the enlistment of fifteen hundred men, to be formed into two regiments, and authorized the Gov. or and Council of that state to raise two other regiments, to consist of seven hundred and fifty volunteers each; the whole were to be officered and supplied in conformity to the requisitions of the act. This act was to continue in force until peace with the Indians, who were then in hostile attitude, should be concluded and ratified by the Legislature. (I presume it is scarcely necessary to remind the House that this was prior to the adoption of the federal constitution by Georgia.) The troops brought into service by the operations of that act, received, individually, from the state of Georgia, in addition to their regular pay and supplies, as compensation for their service, large bounties of land within the present limits of that state. (See act of the 31st October, 1787, Laws of Georgia.) The pay and rations allowed to those troops was the same as allowed to the militia of the United States, when in actual service. (See act of the 24th of December, 1789, Laws of Georgia.) By a rough estimate, I make this item, (supposing those troops to have served six months,) amount to the sum of \$192,636 00

Which I have no doubt is far short of the proper amount.

The aggregate number of acres of land allotted to those troops is 1,981,240; this, estimated at half a crown an acre, which was the commutation price paid by Georgia to the claimants, produces the sum of 1,050,057 20

The sum of £3,000 was appropriated by the Legislature of Georgia for the purpose of clothing the troops, (see act of the 1st of February, 1788, Laws of Georgia,) 12,840 00

By two several acts of the Legislature of Georgia, the first passed on the 8th of De-

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ember, 1793, and the second on the 22d of February, 1796, the sum of  
 was appropriated for the purpose of extinguishing the Indian title to the territory within the limits of Georgia. Besides this, the state had been obliged to hold frequent treaties with the Indians, commencing in the year 1773, for the purpose of restoring and preserving peace, and fixing on temporary boundary lines. On the subject of Indian treaties, our own experience has been such as will enable us to form some tolerable estimate of the immense expense the state of Georgia must have thus incurred: estimating the amount on this item, including presents to the Indians, with incidental expenses, it will be considered very moderate at

35,654 00

\$200,000 00

Making, in the aggregate, the sum of \$1,491,187 20

These expenses come within the description of expenses referred to in the treaty of cession, because they were incurred by the state of Georgia; and these are the expenses referred to. We are informed by the report of the Secretary of War before alluded to, that, at the time when the service was performed, for which compensation is now asked, a hostile disposition pervaded the greater part of the Indian nations within the United States; that a serious war then existed between the United States and the numerous tribes of Indians in the country northwest of the Ohio, and that a predatory war was carried on between the territory southeast of the Ohio, (now the state of Tennessee,) and the Cherokee Nation of Indians, the expenses of which were principally defrayed by the United States. And that, at that time, troops were kept in pay at the expense of the United States on the frontiers of South Carolina. Shall Georgia, alone, be considered as unworthy the notice and protection of the United States? Is she, alone, driven to the humiliating necessity of appealing, so repeatedly, on behalf of her citizens, to the justice, the magnanimity of the United States, and shall such appeal finally be in vain? Or, do you conceive that the antiquity of these claims furnish an objection to their admission? The neglect of the United States has made them stale. Will you reject the claims on the supposition that it is difficult, at this remote period, to investigate their merits clearly? The evidence in support of the facts on which they are predicated, is strong and conclusive. But it will be said, perhaps, that many, and, it may be, that most of the individual claimants are dead. Then, in the name of justice, I demand justice to their offspring. No, they are not all dead; many live, the oppressed subjects of infirmity and extreme poverty. Too many live, witnesses of the injustice and ingratitude of that government, in defence of which they have so gallantly fought. But it may be that their claims are transferred to strangers. Would the existence of such a fact discharge the United States from a strong moral and political obligation to pay these claims? Surely not. Then why withhold, yet longer, from these claimants, what they had a right to receive at your hands, thirty years ago? How has Georgia deserved such treatment? She has ever been devoted to the American Union, true to the American character: she has gallantly defended the Union, long barred the approach of the infuriated savage to the interior states, while she received the death stroke of the Indian tomahawk in her own bosom. Her frontier has been deluged by the blood of her citizens, slaughtered in defending the United States: and still justice, sheer justice, is withheld from them. Once more she appeals, on behalf of her neglected, suffering citizens, to the justice, the magnanimity of the American people; and in making this appeal, even I, (a very humble American,)

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feel humbled by the recollection, that it has been, heretofore, made to my country, repeatedly made, and made in vain. In the name of the deceased soldier, I claim for the widow and orphan some small portion of the price of the blood of the husband and father. They are the children of sorrow and affliction—miserable subjects of squalid poverty—the destitute widows and orphans of deceased soldiers—even the decrepid soldier himself, who thus appeals to your humanity, your sense of justice. Then let not a cold, calculating, unfeeling policy dictate to you the rejection of so just a claim.

Mr. DWIGHT, of Massachusetts, denying all hostility to the claims of Georgia, which had just been so ably advocated by the member from that State, thought that it was nevertheless due to the gentleman from New York, (Mr. TRACY,) who was engaged in the discussion of a subject previously before the House, and which had, at his own motion, been suspended yesterday, to leave the subject of the Georgia claims until that discussion was finished—and, with this view, Mr. D. moved that the report of the Committee of Military Affairs, referred to in the gentleman's motion, be laid upon the table for the present.

Which motion was carried.

#### NIAGARA SUFFERERS.

On motion of Mr. TRACY, the House again resolved itself into a committee of the whole on the bill further to amend the act authorizing payment for property lost, captured, or destroyed by the enemy, in the late war with Great Britain, and for other purposes—Mr. CAMPBELL, of Ohio, in the Chair.

Mr. TRACY rose in reply to the speech of Mr. BARLOW, yesterday. He observed that it was not his intention to have entered further into the debate on this question, than he had already done on the present as well as at former sessions. He did hope that of those who thought with him on the subject of this bill, there would have been enough on every side to have sustained its cause. He was well aware that his situation, as the representative of the sufferers, detracted much from the weight of any thing he could advance on the subject; but, as he found himself left alone to sustain this controversy, he could only regret that the task had fallen on one so very inadequate to do it justice.

Mr. T. then went into a consideration of the principles of national law, as they had been laid down by the gentleman from Virginia, with the most of whose positions he felt inclined to coincide. He did not think, he said, of maintaining that government was bound to pay for all losses suffered in a state of war—but only in the very case in which the gentleman from Virginia had admitted this obligation, viz: when the character of property was changed in consequence of military occupancy. He might, indeed, object to the gentleman's doctrines, that a government such as ours is not bound by the same rules as the ancient despotisms of Europe. But this was not necessary. He would meet the gentleman on his own ground. If Government changed the character of the property, and in consequence of this change, it was afterwards destroyed, the Government is bound to pay. On this ground he was willing to rest the claims of the Niagara sufferers. He here referred to the report of the committee printed at a former session on this subject, as containing evidence that the destruction was in consequence of the connection that government had with the property. He insisted that the sufferers were not bound to show that the destruction was on the allowed principles of civilized warfare; and to sustain the title to indemnity by individuals who suffered loss, it was sufficient to show that it was caused by the public use of their property. He confessed himself unable to discover, with any precision, what the usages of civilized war were, as applied to this subject.



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He understood the gentleman from North Carolina, (Mr. WILLIAMS,) as maintaining that the destruction of New-ark by the American troops was a justifiable act. [Mr. WILLIAMS explained, that he had only referred to the report of Gen. M'CLURE.] But whether it was, or was not, the enemy themselves had *avowed* that they destroyed the buildings because they had been used and occupied by our army.

Mr. T. denied that he had misunderstood the provisions of the acts of 1816 or 1817, or had misrepresented them, as the gentleman from North Carolina seemed to suppose. He contended that the law of 1816 covered the whole ground on which the claimants rested their demands. They asked for no better law—for no new principle. They only sought to have that act carried into effect. They only wished for some tribunal that could decide according to its provisions. But this was denied them. After passing the act, Congress had suspended its execution; and yet they suffered it to stand upon the statute book as if in mockery of the complaints and the sufferings of a large class of our fellow citizens. The principle laid down by the gentleman from Virginia, was the very principle of that law—it was an honest principle—such as every man would apply to his neighbor, and in his own concerns. Under that law a tribunal was appointed to adjudge these claims, and that tribunal had decided that these claims came within the law. This was the only judicial decision on the subject before the House. The law of 1817, he insisted, confirmed the principle of that of 1816—nor had he ever been able to find a case where the principle it laid down was disputed or denied. The peculiar hardship of these claimants was, that, while Congress laid down a rule, it refused them the means of bringing themselves within it. If Congress will only act on the principle of their own law, or will suffer others to act under it, it is all these sufferers ask. As to compelling each individual to come here with his petition, it is an endless business. Some tribunal should be erected with power to decide under the laws as they now exist. But, as he feared there was but little probability of this being done, the bill presumes that the cases adjudicated have been rightly decided, and proposes that the rest be settled on the same foundations.

He admitted the force of what was said, as to a supposed case of buildings occupied the first day, and destroyed the last day, of the war—but he contended that all danger from this construction was obviated by the third section of the bill, which restricted that provision to the cases already adjudicated. If any gentleman was prepared to say that the cases which came fairly under the law of 1816 ought not to be paid, why not repeal the law? It should be either repealed or acted upon.

[At this stage of the debate, Mr. T. gave way for a motion for the committee to rise; and to-day resumed his remarks, of which the following is a summary account.]

In rising to address the House, Mr. T. observed, that, when, yesterday, called by a sense of duty to attempt a reply to the objections which had been urged against the bill, he had labored under a sense of embarrassment, which had, in some measure, caused him to do less justice to the subject committed to him than he might otherwise have done, and he was not without a fear that the same cause might now produce a similar effect. He would, however, endeavor not to be diffuse in what he had to advance. His object had yesterday been, and still was, to show that the principle of the measure contemplated by the bill was defensible on two grounds: 1. That the Government was, in this case, bound by that sort of obligation which had properly been stated by the learned gentleman from Virginia, (Mr. P. P. BARRETT,) as an imperfect obligation, and which, though it certainly did not go to the extent of a perfect and legal obligation, was nevertheless to be recognized as bind-

ing to a certain extent. But, secondly, and principally, that the Government was bound by an obligation in all respects perfect; so perfect, that, if the same obligation existed between two private individuals, it might be pursued and enforced in a court of law.

On the first of these points, he felt assured that the peculiar circumstances of those whose cause it was his duty to plead, and for whose sufferings a remedy was proposed by the bill, must, when duly considered, be owned to create an obligation which, though it might not be of a legal kind, was nevertheless something more than a mere appeal to humanity. Were it, indeed, no more, it ought not to be disregarded; for a government is, in this respect, in the same situation as a private individual—it must be humane, if it can, even where no connection whatever has previously existed between the sufferer and its own acts. Suppose, for illustration, that the Niagara frontier, instead of being wasted by a savage enemy, had suffered equal injury by an earthquake. Could there be a question, that, in such a case, there would exist an obligation on the Government to afford what relief was in its power? Could he not refer to more than one example in which the Government had done this, not only to its own citizens, but even to foreigners? The people of New Madrid, in Missouri, when suffering from the effect of earthquakes in that portion of the Union, had received relief from the Government; and even the people of Venezuela, who resided at a distance from our boundary, had been relieved by the government, in a still more liberal manner. Would any one deny that the Government in this case performed a duty? The principle, then, of abstract benevolence, had attached to it a certain degree of obligation.

But the claims of the Niagara sufferers did not rest on this ground. The fact that the destruction of their property was in consequence of some connection it had with the Government, and that the devastation thus brought upon them was great, and wide, and overwhelming, not only injuring, but ruining, those on whom it came, certainly entitled their case to a peculiar degree of regard, and created an obligation which exceeded in its strength that which he had before been considering.

The gentleman from Virginia had certainly been correct in maintaining that the government was not strictly bound in cases of mere humanity as in those of abstract justice. He knew how indefinite the nature and extent of imperfect obligation was in itself, and had been left by the ordinary writers on these subjects. Yet he might be pardoned in insisting that, in a case like that before the committee, the policy of our country, the nature of our Union, its design—all created a greater obligation on a government like ours, than on Governments like those of Europe, to equalize public calamities. Yet this too, he owned, was indefinite—no precise line could be laid down in reference to which it could be said, Hitherto shalt thou come, and no farther. But must we, therefore, do nothing?

It had repeatedly been urged by those who opposed the bill, that other losses occasioned by the war, might as well demand indemnification as those on the Niagara frontier. But, certainly, in obligations of this nature, there might be degrees arising from circumstances. The injuries occasioned by war, though widely spread, were sometimes slight. These, surely, did not create such an appeal as when people had literally been ruined—all their prospects of future comfort destroyed—every hope prostrated. He would illustrate this principle by a familiar case. The obligations of a father to an adult child were not legally different from those he owed to any other citizen. Yet he would venture to say that there was not one gentleman in this committee, who, if that father's son should lose his all, and he were utterly to refuse him relief, because he had another son whose crop had been slightly injured, would not call him a monster. The obligations of a Government were

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of the same nature; and it was no reason why it should not relieve some of its citizens, whose sufferings had been the greatest, that it could not relieve all who had in any degree suffered.

I hold, said Mr. T. that the imperfect obligation of which I have been speaking, is increased in proportion to the degree of connection of the property with the Government which induced the loss. Now, by referring to the history of the late war, every one will be convinced that, on the Niagara frontier, the connection of the country with the Government, by military occupation, existed to a far greater extent than on any other of the frontiers. The government, for its own purposes, having a general reference to the conducting of the war, concentrated in that district of country a large number of troops, whose presence and accommodation gave the whole frontier a military character.

The gentleman from Virginia had said, that, if there existed no treaty stipulation respecting slaves, and the losers of them should come to Congress with a demand for indemnification, he should have opposed the demand on the same ground that he opposed the present bill. Now, said Mr. T. I have to reply, first, that the case put by the gentleman does not arise, since there is a treaty stipulation with respect to slaves—(a stipulation by which I apprehend other claims to a great amount have been sacrificed)—but if it *had* arisen, the claim on this government for compensation for slaves carried off would be far from equal in strength to that of the Niagara sufferers for their buildings destroyed. A great difference exists as to the character of the property, the one being real, the other personal. An equally great difference respects the facility with which the two kinds of property might be protected. There were other points in which they differed, which he would not stop to examine—but these were sufficient to show that the claim of those proposed to be benefitted by the bill was much stronger than that of persons who had lost their negroes.

He presumed it was unnecessary for him to go into a long detail of facts to prove to the committee that the sufferings on the Niagara frontier had been of a most poignant, severe, and aggravated kind. Whoever had the least knowledge of the history of the war, could not entertain a doubt on that subject. So far as extent of human misery could go in giving validity to any claims, these were most abundantly established. The gentleman from North Carolina had, indeed, said, (he took no notes of his speech, but quoted from it as reported,) that he had been credibly informed that that frontier had been, on the whole, rather benefitted than injured by being made, to the extent it was, the seat of war. Now, the gentleman might have been credibly so informed, but he could assure him not correctly. There could be no greater mistake than to say that that region had been benefitted by the war. If the gentleman gave the least credit to history, he could not but know that the reverse was true—that, instead of being benefitted, it had suffered the utmost injury and distress by the war. The gentleman had said, that great opportunities were enjoyed of making money there—that the highest prices were obtained for commodities, and large amounts of public money expended. He would not deny that, as to a certain portion of the country in the neighborhood of that which was the immediate scene of war, this, to a certain extent, might be true; but this fact, unhappily, increased instead of diminishing the suffering of these claimants. It was the highest aggravation of their sufferings. The highest prices were given for produce—but these persons were not agriculturists. Flour was, indeed, selling at forty dollars per barrel—but they raised none. Those of them who owned farms had their farms immediately on the border utterly wasted. All pursuits of agriculture were interrupted, and the dearer provisions were, the worse it was for them. They

had to buy—not to sell. There was, it is true, a great influx of public money—but they got little or none of it. The country farther back from the enemy might be enriched—but they, instead of being enriched, were ruined.

But it had been objected, that it was not good policy to grant this indemnity: 1st, because it would diminish the ardor of our frontier citizens in defence of the country and of their own property. Mr. T. said, he would not insist that patriotism was a higher and a stronger motive than the love of property; but the very fact, that so many more persons presented claims on this Government, than ever got any thing allowed them, was itself sufficient to prevent any thing like indifference or security. He fancied there were but few men on that frontier, or on any other, who would quietly suffer their houses to be burnt, that they might afterwards have an opportunity of coming to this House with a claim for indemnification. It had been urged, too, against the policy of the bill, that, if once its principle was allowed, the finances of the Government would be ruined. He saw no force in this argument. Should more resources be required from the nation for such an object, he believed that nobody would object more to paying for it, than to paying for the support of the army, the navy, or the fortifications. The same objections might be urged against the one as the other. The man in the interior might just as well say, I will not pay for the army; it is not needed; I will not pay for the navy—I have no concern in commerce; I will not pay for the fortifications—my farm is safe; as to say, I will not pay for the losses on the frontier, because I do not live there. The right of remuneration was not, indeed, so completely recognized at present, as the demands of the army or navy; but were it once adopted as the settled policy, to pay for such losses, there would be no more difficulty in raising funds for this purpose than is now experienced for the army or navy.

The argument, that payment for such losses would induce an enemy to make universal desolation of private property, in order to ruin the financial means of the Government, was equally unfounded. In addition to the fact, that the Government would make the indemnification after the war was closed, and when the revenue resources would justify, it might also be observed, that the motive which restrains an enemy from acts of wanton desolation, is not, that the loss by the citizen is not as distressing to the country as a loss by the Government, but the fear of retaliation, the abhorrence of the whole civilized world, and, he hoped, a proper sense of human rights, which civilization and christianity had produced, afforded the only protection against such outrages which a Government could rely upon.

In illustration that this principle of indemnification was not so altogether new as the gentleman had supposed, Mr. T. alluded to the fact, that the British Government had given to their Canadian subjects on the Niagara frontier, about \$300,000, and had adopted other measures, by which a remuneration to the full extent of their losses was making. He then proceeded to show why the claims of our citizens on this Government were much stronger than the Canadians were on theirs. In their case, there was no pretence of a perfect obligation; it was never pretended that the destruction of their property was occasioned by its occupation by the British; they had spent millions to defend them, had not brought the war to their doors, and had had no connexion with them, except for the purpose of defence. But, with our Government, the case was totally different. Is the obligation of this Government to our citizens, less, or its sympathies more cold, than the British Government, to its remote colonial subjects?

Adverting to the debate of yesterday; Mr. T. quoted the observation of Mr. BARBOUR, that if, by any act of the Government, individual property was withdrawn

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from its pacific position, by the Government, or invested with a warlike character, the Government was bound to indemnify the owners for any loss they might sustain by that act; So far the gentleman from Virginia—who had thus acknowledged, that if the pacific character, which personal and individual property has attached to it, is changed, there is created, on the part of the Government, a distinct obligation, which he called a perfect obligation—such a one as, between individuals under similar circumstances, could be enforced in a court of justice. Now, I do firmly believe, said Mr. T. that the case of the Niagara claims is altogether sustainable upon this position of the gentleman from Virginia. That gentleman has come to the conclusion, indeed, that these claims do not come within his definition, but without any reference to the facts to see whether they do so or not. The proposition which I make is affirmative, that they do come within it, and I expected that the gentleman would have endeavored to show that they do not. But he did not do so. He seemed, after establishing his case of perfect right, to take it for granted that these cases had nothing to do with it, whereas, the circumstances of them do refer them to the very principle which the gentleman laid down.

The true question for the House to determine, in regard to these claims, said Mr. T. is, was there any act of this Government, relating to the property destroyed, which induced a change of its pacific character, and clothed it with a warlike character, and did that change produce its destruction? If this change was thus effected, it is a rule, prescribed by common sense and justice, admitted by the gentleman from Virginia himself, that the claimants ought to be indemnified. It is not for us to dive into the recesses of the human heart, to search for the motives which lead to that destruction of property. For, if there was a just cause for this destruction of property by the enemy, we ought not to advert to other transactions, in other times and places, to account for it.

In regard to the general nature of the operations on the Niagara frontier, during the late war, Mr. T. proceeded to show, that they were such as to change the character of the whole of the property on that frontier, from a pacific to a belligerent character. The House ought to bear in mind always, that our military operations on that frontier were of an offensive character, because he thought that consideration placed these claims on ground to make the argument in their favor conclusive. Our troops were not carried there to protect the frontier from invasion by the enemy. That was not the purpose, nor the object of the collection of the troops there. If the Government had not, for its own purposes—wise ones, no doubt—chosen to make that border the theatre of war, there was no human probability that there would have arisen there any of the consequences which did actually occur. Of one fact in regard to this matter, there could be no doubt, namely, that the Government was, as a Government, totally destitute of any public property on that frontier. They had neither barracks, nor hospitals, nor arsenals, nor warehouses for the deposit of public property. Yet the Government chose to carry on offensive war from that frontier, by a continued series of invasions of the territory of the enemy. For all the purposes of hospitals, barracks to shelter the soldiers at all seasons of the year, depositories of public stores, &c. they had to rely on the buildings of the inhabitants, which they made free and general use of. When these things were considered, Mr. T. said, that it would be discovered that the notoriety of this fact must have established, in the mind of the enemy, a positive conviction, that the offensive movements on the part of our troops, were entirely dependent on the use of individual property, and that measures of defence against this warfare must include the destruction of that property. It was thus that the property on that frontier ac-

quired a belligerent character. If the Government had had, as, in theory at least, it ought to have had, places for the protection of its property, and barracks to shelter its troops, whenever it carried on its military operations, and those places had been occupied, instead of the private buildings, by the troops and stores of the army, then the destruction of the private buildings would have assumed a very different character. The policy of the Government, however, having made this ground the scene of war, without these ordinary appendages to a military frontier, the houses of individuals were made to serve the purposes of public buildings.

What, Mr. T. asked, was the natural conclusion of the enemy from this state of things? They reasoned to themselves, that, in destroying those buildings, thus used, they would not merely destitute that frontier, but protect their own territory. This was the unanswerable conclusion to which, upon the facts before them, military men would necessarily come.

In this view of the subject, a character was given to the property thus occupied for offensive purposes, different from that which it would have borne, if occupied for defensive purposes only. If, for example, said Mr. T. the enemy had come to invade the city of New York, and we, for the defence of the city, had taken possession of private buildings, I should say that the right of the enemy to destroy those buildings would be very different from that which he held in regard to those buildings on the Niagara frontier, which our troops occupied for offensive purposes.

M. T. here recurred to some of the testimony taken in regard to these claims, to shew that the facts existed in a degree even stronger than he had stated—exhibiting a state of things to justify the destruction of property on the Niagara frontier not only for general causes, but for the particular cause of the justifiable presumption that the property occupied as barracks, &c. was the property of the United States, and the certainty that the property within those buildings, at least, was the property of the Government. Mr. T. here read extracts from the testimony of Gen. Porter, whose public reputation and standing in the country gave weight to whatever he said, to shew, that, so general was the occupation of private buildings by the authority of the United States, that he could not, upon reflection, recollect a single building on that frontier, fit for barracks, hospital, quarters, &c. which had not, at one period or other of the war, been principally or exclusively occupied for one or other of those purposes. There were many other witnesses to the same purpose, whom it would be impossible to discredit. Mr. T. particularly dwelt upon the fact disclosed by the testimony, that the people of Buffalo, through their committee of safety, had remonstrated with Gen. McClure in December, 1813, against his quartering troops in that village, expressly stating that, if he did so, they had reason to apprehend the destruction of their property as the consequence; to which General McClure said, in reply, that he would pledge his honor that indemnity would be paid by the Government for any losses which might be sustained, &c. Mr. T. did not mean to attempt to sustain these claims on the ground of Gen. McClure's promise, but he quoted the fact to show conclusively, and to carry conviction to every mind, that there did exist a state of things there which left no doubt, either on the minds of the people or of our military commanders, that military occupation of the private property would, in all probability, subject it to destruction. Gen. McClure, whilst making the reply which any honorable man or patriot would do on such an occasion, insisted on taking possession of the buildings, which were, indeed, indispensable to the shelter of the force under his command. Not long after this, the enemy came. Mr. T. stated the circumstances of their coming, and the manner and time of their destroying the property. With regard to the motives of the enemy, gentlemen might

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ascribe to them the most savage, atrocious, and diabolical; but, in his view of the matter, charity, even to an enemy, required that, where a justifiable motive was to be found for his acts, we should refer them to that rather than to one that was merely malignant. The mass of testimony from our own officers, proved that the destruction of this property was caused by its military occupation. Independent of this strong concurrent testimony, there was a body of evidence of British officers to the same effect. Many of these individuals, Mr. T. said he knew, because he resided in the vicinity of their country, and he knew that they were men of as high honor, virtue and integrity, as were any where, British or American, to be found. Mr. T. pursued the history of this disastrous season, with all its circumstances, to shew that the invasion of the Niagara frontier was purely a military operation, &c. The occupation for military purposes, was, indeed, almost universal. Several of the buildings were destroyed by the explosion of the powder and ammunition deposited in them, &c. The depositions on this subject, taken together, formed a complete chain of testimony, establishing what were the motives and object, &c. of the destruction of this property.

If the language of the act of 1816 had required, to entitle the losers to indemnity, that their property should have been so occupied, as, upon the principles of civilized warfare, to justify their destruction, the case would have been fully made out by the testimony. But, Mr. T. said, the laws on this subject do not demand that the occupation should be such, to authorize a claim for indemnity, and it is obvious that they should not demand it. In passing the law of 1816, Congress did not mean that the destruction of property should be justifiable: for it is sufficient to constitute an absolute obligation to indemnify the loser, that there was an occupation of his property by the Government, and that the destruction of his property was the consequence of that occupation. Such was the law of 1816, establishing the same rule between the Government and individuals, as would be the law on the principles of common justice, between one individual and another individual.

As regards this last point, Mr. T. said, the law has not required, reason does not require, that the conduct of the enemy should be justifiable, to sustain a claim for indemnity. Neither have the decisions of this House required it. Mr. T. referred to the case of the Henderson claim, for property destroyed by the enemy on some part of the maritime coast of Virginia, in which it was not established, nor was there any color of evidence to prove, that the destruction of the property was justifiable by the usages of civilized war: and yet, Mr. T. said, if he was not very much mistaken, the gentleman from Virginia had himself voted in favor of that claim. The gentleman from North Carolina, (Mr. Williams) who, to do him justice, was consistent in his opposition to all this class of claims, had declared in the debate on that claim, that the case was not at all stronger than that of the Niagara claims. His declaration was not necessary to prove this: for if any one would look at the facts of the two cases, he would see, that whatever difference there was between them was in favor of the claimants on the Niagara frontier, in this view, that the military occupation in the Virginia case was defensive—that in the Niagara cases was offensive. Although, Mr. T. said, he had voted for that claim, believing it a just one, it was in no degree of comparison as strong as the case of the Niagara sufferers.

He had not said all he wished, but he would no longer detain the committee but to say, that, under views which might be presented by others, he might have occasion to trouble the House again on the point, made by the opponents of these claims, that the devastation of the frontier was a retaliatory act. The views which had been expressed on this point, Mr. T. said, were alto-

gether erroneous: but, if otherwise, even then the obligations of Government were very different from what gentlemen had supposed them to be in such cases.

Mr. T. closed by observing that, in relation to the motion to strike out the first section, he hoped, if gentlemen were determined nothing should be done for these claimants, that they would vote for the motion, and put them out of their pain. In regard to this bill, though he felt the common affection of paternity for it, he was not tenacious of its particular features: he was willing it should be amended, if desired. His constituents, these claimants, had been tantalized so long with hope and expectation of relief, that he hoped a final decision would now be pronounced on the case. If, in defiance of justice, reason, and equity, gentlemen were disposed to refuse the claimants any indemnity whatever for their losses, Mr. T. hoped they would vote for the pending motion, and at once put an end to the bill.

On motion of Mr. VANCE, of Ohio, the committee then rose, and obtained leave to sit again.

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The resolution was received from the House of Representatives proposing a joint committee to wait on General Lafayette, and announce to him the passage of the act in his favor, and requesting his acceptance of the provision therein made for him.

The resolution was agreed to *nem. con.* and Messrs. SMITH, HAYNE, and BOULIGNY, were appointed by the chair the committee on the part of the Senate.

The bill for the relief of the Columbian College in the District of Columbia, being under consideration:

Mr. BARBOUR said, in a report made last session in the Senate, a general view was taken of the necessity of a College within the District of Columbia, and it was then stated that it had been a very favorite object with the most distinguished citizens of America, amongst whom, Presidents Washington and Madison had often pressed on the attention of Congress the necessity of such an institution. From causes not necessary to be enumerated here, this advice was not acted upon by Congress, and, after the expiration of many years, some free spirited and enterprising citizens, amongst whom Luther Rice stood pre-eminent, determined to do that which had been represented to Congress as well worthy of national patronage; and they succeeded, so far as to lay the foundation of the institution in question. A college was erected, but not on a scale in any way corresponding to the public expectation on the subject, because the only aid that has ever been granted by Congress to this institution was a cold and reluctant consent to its existence. The only solution that was to be found to this unkind disposition, was the misapprehension that had gone abroad, that it was to be a sectarian establishment, and as such not entitled to the favor and consideration of Congress. If this had been the case, and this establishment had been of an exclusive nature, the objection would have been an insuperable one, and I for one, said Mr. B. should have voted against it. My creed, with reference to this subject, is, that it does not belong to the constitution to dispense, in the slightest degree, favor to one sect, to the exclusion of others. Religion should be, as it is, placed beyond the control of government, and free as air. But, in this case, the fact has been misrepresented; the suspicion is entirely unfounded, and a reference to the history of the Institution will prove that it is not true. It is purely a literary establishment; youths from all parts of the Union are zealously invited, whatever may be their religion, and the attention of the superiors is directed to their intellectual improvement. I mention this fact again, because I know that, from the day of its foundation, it has been viewed through the jaundiced eye of suspicion, from which it has suffered much. Whatever may be the fate

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of the present measure, it is due to the character of the Institution to state, that it may be universally known that this imputation was hastily thrown out, and is entirely without foundation—the general improvement of the mind is its object, and it is not bound to the exclusive support of any system of religion whatever.

By the spirit and enterprize of almost one individual, continued Mr. B., funds were raised, and \$0,000 dollars invested for purchasing a favorable site, and for the erection of buildings for the reception and accommodation of 100 students. In the pursuit of this object, 80,000 dollars were expended, consequently they exceeded the amount of their funds by \$30,000; this claim still exists against the Institution, and the payment of the interest is a heavy tax on their slender means. So far as this is concerned, however, they do not propose to ask for any aid from Congress, and you will see by the report, as well as by the bill, that the aid now petitioned for has no connection with this sum. Last session, it was proposed to extend some relief to the College; it was desirable that the Institution should prosper; it was one of national concern, and was of sufficient extent to educate 100 of the American youth. The grant proposed was opposed, on the ground, that the means of the inhabitants within the District were amply sufficient for the end in view, and that Congress had no right to appropriate public money for a local object.

This objection was removed, in the opinion of the committee, by the proposition to appropriate a few of the lots belonging to the United States, acquired by the cession of the territory. And, as the United States had given one thirty-sixth part of the public domain, in each of the new States, for the purposes of education, the committee could not perceive why pursuing the same measure of aid here should be objected to. But, instead of asking that proportion, they had recommended only a very small appropriation. For, according to a report presented to Congress, the value of the lots had been estimated at \$2,000,000. And they were the more confirmed in the view they had taken, as this fund had been pointed out by Mr. Madison, as one free from every constitutional scruple—and higher authority on constitutional doctrine, would hardly be required by the Senate.

They therefore had presented to the consideration of Congress a plan free from difficulty, by which the institution might have been benefited, and they had a hope, bordering on confidence, that the Senate would have had no difficulty in responding to their views on this subject, by granting the required aid—the amount was limited, and they hoped, that, after this relief, the institution would have prospered. The Senate, however, had differed in opinion from the committee; and thus differing, the committee had yielded; and the only fact to be noticed, is, that the College has hitherto received no favor from Congress but the privilege of existing.—The expectation of all pecuniary aid is surrendered—they ask only, that the government will give up the claim which they have on it, whose origin is disclosed in the report. They have nothing to answer this claim but two houses, for which the debt was contracted, on Greenleaf's Point; and any Gentleman who has visited that spot will easily comprehend that it is not very available property: It is surrounded with desolation; and though true that some of the houses have survived, yet, in the course of time, without some great change, this property must come to nothing. The fact is, the College have never received the least, or, if any, an inconsiderable advantage from this property; they became responsible merely in consequence of these two houses, which they believed they could render available. What their motives might have been in acquiring this property, I cannot say. I merely speak to the fact, that the institution has not received any benefit from this transaction.

And what, said Mr. B. do they ask? Not that you

should put your hands into your Treasury. Not that you shall do to them as you have done to others, namely, to appropriate a portion of the public lots for the benefit of education; but simply to release a debt which they are unable to pay. Even in the case of individuals, where a man, by misfortune, is unable to pay his debts, is it unreasonable for him to ask of his wealthy creditor to surrender a debt which he cannot discharge, whose only effect is to keep in his hands a rod with which to chastise, unavailable to the creditor, but disastrous to the debtor, repressing every motive to exertion, from the hopeless conviction that every exertion is in vain! And this is all that is now asked by the Columbia College—a feeble institution, full of promise, if it succeeds in the little boon now asked.

You may retain this pleasure, if you call it a pleasure, of holding this rod over this institution without benefit to yourselves, but ruin to it. Look to the origin of this institution, and you will observe that it has progressed in a most extraordinary manner. Your agency towards it has been cold and reluctant; you were contented with allowing it to exist; you are the only legislative body to which application can be made on this subject. All the states of the Union have shown a lively interest in the encouragement of such institutions; and yet an institution in this particular district, which has been placed under the peculiar care of Congress, is suffered to struggle with difficulties that must overwhelm it without your aid. Your treatment towards it has been rather that of a harsh unfeeling stepmother, than that of a kind and affectionate parent, and now that it has grown up to such an extent as to contain more than one hundred students, and asks of you only to relinquish that claim which is useless to yourselves, and yet presses so hard on it, will you refuse? Look at its progress: What was expectation and speculation last year, has now become reality. There is no institution, considering the time it has been endowed, and the number of pupils, that has presented more distinguished specimens of literary improvement than this college has done. The language of the report on its actual results is consoling.

These, said Mr. B. are the views which presented themselves to the Committee, and are thus freely represented to the Senate. I rejoice to see literary establishments springing up every where. Permit me to offer a general remark: Look into the annals of mankind; every page of history presents the shocking and disgusting view of man preying on his fellow man—of millions expended in desolating the earth and destroying the human species; but when we seek for acts of beneficence done by Governments for promoting the welfare and happiness of the people, we look in vain; or if by chance we do discover a solitary instance, arising from motives of pure benevolence, it is like the verdant spot which strikes and refreshes the eye of the weary traveller in the midst of the burning and sandy desert, and is the more cheering and delightful from the contrast with the desolation which reigns around.

If we appeal to the annals of our own country, said Mr. B. we shall find that we are by no means entirely free from these charges. The free institutions we lay claim to, and superior intelligence we boast, in their practical effects, seem to furnish the ordinary materials for history. Millions have been appropriated here, as elsewhere, for warlike purposes. But where are your acts of beneficence? I fear but few. I therefore, said Mr. B. present this case to the favorable consideration of the Senate, with the flattering hope that they will take this opportunity of adding one item to the very few that are now on record, where Governments have acted benevolently for the benefit of mankind.

Mr. CHANDLER observed, that, if this institution was a national one, then they were bound to foster it; but, if it was not, they saw no reason why they should afford it any support, beyond what they afforded to all



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institutions of a similar description in the United States. The sum was a small one, and he did not object to the amount, but objected to making the institution a national one in an indirect manner. They would advance step by step, and, by and by, after thus aiding the institution, they would have to support it as a national one. He thought it a very useful institution, and was willing it should be supported on a similar footing with all the others; but, before he gave his vote in its favor, he must first see the question settled whether it was or was not a national institution.

Mr. R. M. JOHNSON, of Kentucky, said, after the interesting and able view which had been taken of this subject by the chairman of the committee, (Mr. BARBOUR,) it would be useless for him to occupy much of the time of the Senate on it. You, sir, said Mr. J. are well aware of the power of education on the human race as it regards religion, morals, politics, arts, and sciences; and its effects in promoting the happiness and welfare of mankind. Turn to the annals of this country, and there is abundant proof of the munificence and liberality of Congress in promoting the literary efforts of the new states which are admitted into the Union, by a grant of the public domain for the support of these institutions. It was the policy pursued under the administration of the Father of his Country, and has been continued, under the distinguished men who succeeded him, to the present time. There was no voice in opposition to the policy which dictated the donations to the infant states admitted into the Union. Could gentlemen say this was a partial appropriation? Would the honorable gentleman oppose an appropriation which tended to raise man from the savage state, and bestow on him all the benefits of civilized life? Congress has shown its beneficence to the rising youth of the country, to whom is to descend the invaluable legacy of liberty, for which our fathers fought and bled, and for which my honorable friend from Maine has shown his devotion on all occasions. In vain we fight for our country, in vain we defend the liberty we have received, if we are to be deprived of the blessings of education, which are enjoyed by all civilized nations. We well know, said Mr. J. how the mind even of the philosopher is biassed, as regards government and religion, for want of liberal education, and we know how their morals differ from those who receive instruction from the divine book which comprises all good.

In what relation, continued Mr. J. does this unhappy District stand to the other portions of the United States? The people of it are without a representative, without those immunities which are enjoyed by the other classes of citizens; deprived of the active exercise of all those principles which dignify the human character, and remind us we are men. Although they may, in reality, be happy, yet they cannot mix in the debates of this or any other body. By the policy of the General Government, we have made liberal donations for the support of education; and there is not a state in the Union but possesses two or three seminaries of learning, where the higher branches of education are taught; but this college is not endowed by Government—by the only government that can endow it, or to which it can look for aid. They say you have a claim on them, it presses very heavy on them, and they ask you to release them from this claim. After having expended 100,000 thousand dollars, they are still 30,000 dollars in debt. If it is believed that we possess the power, is there a bosom that will not sympathize with them? In the progress of this institution, the character of a man is brought before us, who seems to have lived for nothing else but to serve the public in promoting institutions for the benefit of the rising generation, without the least advantage to himself, or any expectation of reward, save that arising from a good conscience. When I reflect on the character of mankind, and how few there are, amongst the millions

of human beings who are devoted to the cause of humanity, a sentiment of admiration, mingled with surprise, fills my mind in regarding the character of this individual. I know, said Mr. J. the individuals who conduct this institution; they have little or no remuneration, and even that little is devoted to the improvement of the establishment. I know these individuals, and pledge myself for the truth of what I state. Whatever we may think of this appropriation, we may rest assured that it is not for the purpose of individual aggrandizement. And why, he asked, should not this be a national institution? Are we afraid of forming a precedent? If I thought it would be of any service to plead for this institution, I would do it; but I have not the talent, nor would such an appeal have any influence on this honorable body. All the institution asks of you is to relinquish the claim upon them, that they may say, "we have no mortgage, no pressure upon us but the balance of the debt incurred in establishing our institution." Let Congress assist it, and it will encourage individuals from all parts to lend their assistance; and, by giving a little to this institution, a favorite wish of our immortal Washington will be realised. We have the exclusive legislation for this territory; therefore, they appeal to you, and say, "forgive us, remove from us this heavy burthen, which bears us to the earth, so will our institution flourish and prosper."

Mr. HOLMES, of Maine, said, the Senate ought not to deceive itself as to what was asked of it. The plain statement of the case was this: We are to give them the sum of \$25,000 dollars, because their affairs are so embarrassed they cannot go on without it. He considered it the same as paying so much money out of the Treasury, & when they have obtained this, they may ask for an equal sum to discharge any other debt. The question is, said Mr. H. will you give them this sum? For my part, if it is necessary for them, standing in the relation they do with respect to us, I see no difficulty in the way. I don't, however, said Mr. H. look upon it as a national institution. I dislike the term; we are every day becoming a little too national. It is a territorial institution, instituted in this territory, over which we have exclusive legislation, and being so, it is our duty to legislate properly for them, and promote the happiness of this district. Whether the people connected with this college have acted purely from disinterested motives, it is not for me to inquire; they have acted as other men have done, who wish to establish a literary institution. If the object is a good one, I don't wish to inquire into their motives. They say their funds are insufficient; and, how far you are to go in assisting them, is the question you are now to settle. It may be said, if you give to this institution, you must give to every one throughout the States. But I hold it a very important principle, that Government should never patronise or endow an institution over which it has no control. You may make a grant, and another State may legislate; but in this instance you grant and you legislate likewise. I think we are bound to give this sum. It may be objected that we are beginning at the wrong end, by endowing an establishment for the higher branches of education, while we neglect the primary schools.

I, said Mr. H. do not regret, as some gentlemen seem to do, that this District has no representative in Congress. The circumstance of Congress possessing the District, and fixing the seat of Government here, has given it more influence than the largest State in the United States has, or ever will have. I hope the time will never come when an alteration in the constitution shall be necessary to give this District a Representative. It is always the case that, where the seat of Government is, there the people will possess great influence: only look at the appointments made and the offices held. They need no Representative to give them influence. We should legislate for them as we would for our children,

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or as a State Legislature legislating for a State. We are now on the subject of the education of a people over whom we have supreme control—they are in want of \$25,000; and the question is, shall we give it to them or not?

Mr. MILLS, of Massachusetts, observed that, before this bill was passed, it would be well to consider the character of the corporation for whose relief the bill was reported. If it is allowed to be a national institution, said Mr. M. then they have a right to appeal to the national legislature. The question whether there should be a national university at the seat of Government, has been agitated at different periods, and has been, from time to time, recommended by the distinguished individuals who have presided over the nation.

I recollect very well the history and origin of this institution. When their application for a charter came before the Senate, all intention of asking pecuniary aid from Congress was disavowed. They came forward and prayed that an act of Congress might pass for their incorporation, for the better management of the funds that had been raised by individual subscription in the different parts of the Union, for erecting a college here. It is purely an eleemosynary institution, and Government has no control over it except the power to modify or change, or, if necessary, repeal their charter. It possesses no visitatorial power, or any control over the funds. They selected the spot themselves for its erection in the District of Columbia, and their locating it in this District, by their own will, no more entitles them to aid from Government, than if they had located it in Illinois or Maryland. Therefore, this is not a national institution. If the time comes when we shall see a national university established, I hope, said Mr. M. to see it endowed with a liberality and munificence commensurate with the means and resources of the country. This institution disclaims every idea of the kind, and is on the same footing with every similar institution throughout the country.

The honorable gentleman from Virginia, (Mr. BARBOUR) had stated the manner in which the debt originated. The college assumed this debt voluntarily, but have they, said Mr. M. received nothing for it? Why did they guaranty it? What business had they to meddle with it? I hope they were not so incautious as to assume a debt without receiving a quid pro quo. If, in speculation, they have involved themselves, they stand on the same footing with other individuals or corporations who have met with a similar misfortune. I have not yet seen any reason why Government should extend its liberality to them by giving up this debt. Any individual who is a debtor to the Government, may as well say he cannot carry on his business unless the Government will give up the debt. I wish to know how they became responsible, and what value they have received for it.

Mr. MACO observed, that claims on Congress were something like wine and spirits; they improved by age. He agreed to every word the honorable gentleman from Kentucky had said on the subject of education, and the freedom with which students of all religious persuasions were admitted in this college. But that had nothing to do with the question. It appeared to him that, by some bargain or other, the college was indebted to the United States. This bargain was made between the Secretary of the Treasury and the Trustees of the college, and was like all other bargains. They thought they had made a profitable one, but they were mistaken. Congress might lay a tax on the District for the purposes of education. In all the states there were taxes laid for the purpose of education; and there was not a college in the Union but received students of every denomination of religion. They never asked what was his creed; but, if he was moral and studious, he was admitted. Although this District had no representative, Mr. M. said, it was in a better situation than any other part of the Union, from the quantity of public money expended in it; and the

people of it were as able to pay for the education of their own children as any state in the Union. Their advantages were immense. This bill did not go so far as it did last session: it asked now only for 25,000 dollars; but, if it were for only 25 cents, his objections to it would be the same.

Mr. BARBOUR again rose. He begged leave to observe, that this was not considered a national institution. If, said he, I had presented it to the notice of the Senate as such, I should have been ashamed to have made a beginning with a bad debt of \$25,000 for its endowment; surely any man would be ashamed of such a thing. It is only an institution diffusing benefit throughout the nation, but not the child of national patronage. If gentlemen will give themselves the trouble to refer to the report, they will perceive that it is an institution which draws after it the advantages of a national university, although not created by the Government, or making any claim upon it. A homogeneous people is produced by being educated in a similar manner; and every one is aware what effect similarity of feeling produces. Its effects are most evidently calculated to guaranty the continuance of our Government. If we had a national institution, equal to that suggested by Washington and Madison, the youth of the country would resort to it from all parts of the Union; they would there form those fine feelings of friendship, which are the strongest tie between man and man throughout life; and these good feelings would have the most salutary influence on the councils of the nation. I do not speak of this institution as created by the nation; but, from its locality, it presents itself favorably to Congress, and that is the whole extent of the view I have taken.

But, said Mr. B. there is a scarecrow placed here. You must not do right now, lest you do wrong hereafter. The gentleman (Mr. Mills) has stated that there was an intimation or promise, at the time of the incorporation, that no aid should be asked for. At that time they thought none would be necessary; they had received \$50,000, and they thought they could accomplish their object from individual assistance alone. The success which had thus attended the exertions of the friends of this establishment, arising from voluntary grants, justified the opinion they had formed of being able to stand alone. But we all know that great pecuniary distress had fallen upon the land, of which thousands had been the victims. Instead, therefore, of finding the same liberal aid which they had experienced in the commencement, they found every hand closed, and to be opened only by their own imperious necessities.

It is said, if we give in this instance, we shall be obliged to give to every state establishment of the kind; but where is the resemblance between this District and any other place? Here we have entire control; here is property belonging to the territory, which we obtained by accepting the territory; they have no legislature to which they can resort but to Congress. In the new states, I repeat again, one 36th part of the public lands has been allotted to the purpose of education; but is that the case here? Out of lots owned by the Government in this city, to the amount of two millions, not a cent has been devoted.

This college, said Mr. B. differs from similar institutions, in other parts of the Union, inasmuch as its benefits, from the centrality of its position, will extend to the remotest parts of the United States—and what do they ask? Although my friend is not governed by dollars and cents, others may be, and it is frequently a weighty argument. The honorable gentleman says, he considers it as a grant of \$25,000; but this is not the case; it is the mere release of a debt, which is never to be recovered by the United States; it is of no advantage to the states, but lies like an incubus on the college. There is a vast difference between paying away \$25,000, and releasing a bad debt to that amount.

Some remarks have been made with respect to the

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hold which Congress possesses over this Institution. It is, said Mr. B. as absolute a despotism as any tyrant could wish. By the charter, the moment you withdraw your assent, they cease to exist—they live but in your presence; and I beg leave to ask, what greater control you would wish than that?

It has been remarked that this territory ought to be extremely rich, and the gentleman from Maine says he does not wish to see it represented in Congress; but this does not involve the question before the Senate. On that point, however, Mr. B. said, it is the genius of the constitution that the American people should be represented wherever they may be placed. Why should you wish to disfranchise them, and have a race of people placed beyond the scheme of the constitution?

I must now, said Mr. B., address myself to my friend from Massachusetts, in regard to his *quid pro quo*. We will take it, says he, for granted, that the trustees did receive a compensation for the debt: nominally, indeed, they did; but it was unavailable, and it has been a most unproductive transaction. Thousands of contracts are made, and prove ruinous; and, in such a case, would not every generous man do his utmost to relieve the sufferers? There has been no *quid pro quo*. It appeared at first that there was something like equality in the contract between the parties, but it was merely nominal, and now we know that it was a total loss on the part of the College.

I have, said Mr. B., no talent for illustrating the subject of education; but the fruits it has already brought forth in this very college, must make an immense impression on the public mind. An individual, without legislative aid, establishes an institution without any prospect to himself of earthly good, except the consciousness of a good deed; he lays the foundation—it takes root, and flourishes; and, from such a beginning, it now contains 120 of the future legislators of the country. From the specimens which have been produced, there is unequivocal evidence of the superior manner in which this institution is conducted. Yet it only asks release from a debt which it cannot pay, and which bears heavy on it; and is it a matter of fair argument to say that such an institution has no stronger claims than an individual asking for relief? The subject is now before you. I have endeavored to acquit myself according to my view of it, and I recommend it to the favorable consideration of the Congress of the United States.

Mr. HOLMES, of Maine, could not agree with the reasoning of his friend from Virginia. He says the corporation is in debt, and cannot pay, therefore forgiveness must be extended to it. This is the last reason he should have thought of applying to a corporation. The next thing would be that the Bank of the United States would be asking them the favor to cede stock. Every corporation that comes to want is to be considered in the light of an individual debtor; but, in this instance, Mr. H. did not know who they were to forgive. The honorable gentleman had spoken of the right of representation in this District; but he would only answer him in the words of the Constitution, and that was a sufficient answer for him.

Mr. MACON observed that he still did not precisely understand what was wanted. Did the college want the Government to give up every thing while they gave up nothing? It mattered not whether the case applied to individuals or to corporations.

Mr. HAYNE did not rise to argue the question, but merely to discover whether he was correct in his idea of the subject. He understood, from the statements made, that the institution held certain buildings, and that the United States held their obligation for the debt. These buildings were essential for the prosperity of the institution, and it was not in the power of the officers to force payment without ruining the institution. Part of the debt might be collected by the sale of the college

buildings, but all of it cannot be. What was then the question? Should the Government, by a rigid enforcement of their account, involve this valuable institution in destruction? He, for one, said No. On the ground taken, that the District was within their exclusive jurisdiction, that they had no representative, and were thrown on Congress, he wished the debt should be remitted. They had done much for education in other places, then why hesitate in this instance?

Mr. MILLS said he understood that the corporation had assumed the debt amongst themselves since the completion of the buildings. It was an unwise and unnecessary speculation, which they ought not to have meddled with.

Mr. JOHNSON, of Kentucky, in reply, assured him that he labored under a misapprehension—that the houses were purchased by Luther Rice, in his own name, for the use of the college. The proposition was made to the trustees of the college, to take the property, and give their note to a certain amount. The houses stand mortgaged to the Government of the United States, and the Secretary of the Treasury, knowing the debt was for the benefit of the college in the first instance, had placed it in the name of the college.

Mr. LLOYD, of Mass., requested to know with what view the purchase was originally made.

Mr. JOHNSON, in reply, stated that they were bought for the express purpose of accommodating the agents of the college, and carrying on the affairs of the institution before the college buildings were erected.

Mr. MILLS was not satisfied with the information obtained in this way, but desired to have precise information as to the subject in question; and, for the purpose of obtaining it in a proper form, he moved the recommitment of the bill, that a report of the facts might be made.

Mr. BARBOUR stated that the buildings were bought by L. Rice, the founder of the institution, because he thought it would promote the object in view. The Secretary of the Treasury thought he could not be injured; for what he took was so much gained. After the incorporation took place, the Secretary knew it was connected with this institution, and carried on the negotiation to make the debt a debt due from the Columbian College. These houses, said Mr. B., bear no proportion to the amount of the debt; and, if it can be paid, it must be by the sale of the college, and, even then, the proceeds would be insufficient to satisfy the demand, as the college owes other debts having a prior claim. The very existence of the college is involved in the question, and you may, if you please, have the college cried through the streets, like a horse, and knocked down for what it will fetch.

Mr. CHANDLER recommended that the bill should be recommitment, and a report made to call on the Secretary of the Treasury for precise information regarding the debt. As to selling the college, they would, he hoped, never find it necessary to do that. The Government would never press the institution to their injury. Let them pay it when they pleased, but only give the House the necessary information to act on.

Mr. LLOYD, of Maryland, observed, that his absence had prevented him from becoming fully acquainted with the facts on which this petition rested. He thought, however, that, if the Government released the college from the debt, the college ought, at least, to give up to the Government the property for which the debt was created. On these terms he would be willing to cancel the contract; and he moved the recommitment of the bill, with instructions to report to that effect.

Mr. NOBLE was opposed to the instructions.

The motion to instruct the committee was lost; and then

The bill was recommitment without instructions.

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Illinois Canal—Amendments to the Constitution.

[DEC. 30, 1824.]

## HOUSE OF REPRESENTATIVES—SAME DAY.

On motion of Mr. ARCHER, of Virginia, it was

*Resolved*, That a committee be appointed to unite with a committee from the Senate in announcing to General Lafayette the passage of the act concerning him, which has just been approved, and to express to him the respectful request and confidence of the two Houses of Congress that he will add his acceptance of the testimony of public gratitude extended to him by this act to the many and signal proofs which he has afforded of his esteem for the United States.

## THE ILLINOIS CANAL.

Mr. COOK, of Illinois, moved the following:

*Resolved*, That a committee be appointed to inquire whether any, and, if any, what, provision it will be proper or practicable to make to aid the state of Illinois in opening a canal to connect the waters of Lake Michigan and the Illinois river; and that said committee have leave to report by bill or otherwise.

Mr. COOK, by way of explanation of his views in moving this resolution, as it was rather out of the usual course to propose to refer such a subject to a select committee, made one or two suggestions. A year or two ago, he said, Congress passed a law granting to the state of Illinois certain privileges in relation to land through which the proposed canal is to pass. The state took all the necessary steps to avail herself of these privileges. But it was not likely that the state, from its ordinary means, could carry this measure into effect. Congress have given to the state of Illinois a certain proportion of the nett proceeds of the sales of the public lands, for the encouragement of learning; and a portion of the public lands within the same state for the same purpose. If no better means should present themselves; if the Government of the United States should not consider this canal, in a national view, of so much importance as to construct it at its own cost, the state might be allowed to convert its School Lands into a fund for the purpose of making the canal, and to apply the toll from the canal to the school purposes, thus merely changing the land into a canal stock, the profits of which to be applied to the same purpose as the land is to serve—of encouraging learning. There were a variety of views which Mr. C. said he could present to a committee on this subject, and to the House, upon a proper opportunity. This canal was really a national object, worthy of the employment of the national means. But, if this House should not consider it so, means to execute it might be placed at the disposal of the state by the measure which he had suggested.

Mr. ALLEN, of Massachusetts, was opposed to the reference of the resolution to a select committee. He thought that it properly appertained to the Committee on Roads and Canals, who were perfectly competent to dispose of it; and he moved, as an amendment, to substitute the Committee on Roads and Canals for the proposed select committee.

Mr. COOK said, if he supposed the Committee on Roads and Canals could devote to this subject that attention which its importance, in the estimation of the people of Illinois, at least, demanded, he should have no objection to the reference of the subject to that standing committee. But, already, so many subjects had been referred to that committee as to preclude such an inquiry into this subject as he felt it to be his duty to ask from the House. Understanding, as he did, the various phases of this question, Mr. C. said, he should hope that a select committee, exclusively devoted to the subject, would present a more satisfactory view of it than the Committee on Roads and Canals could do, giving to other matters already before them the attention which they justly demanded. Feeling in the subject, as the representative of Illinois, a special interest, he was desirous of presenting the subject as strongly to the House as it

might be in his power to do, with the time and attention which he could personally devote to it, were it referred to a special committee.

Mr. COCKE, of Tennessee, rose to inquire if the canal referred to in the resolution of the gentleman from Illinois was the same for which land had been granted, at a former session, to extend, if he recollect-ed rightly, a mile on each side of the canal. He heard some gentleman near him say that, in his opinion, he was mistaken—perhaps he was mistaken as to the canal intended; but wished to know the fact.

Mr. COOK said this was the same canal. There had been a reservation of a mile on each side of it, by the United States; not for the purpose of making the canal, but for its own purposes, to be sold after the canal should be made. One object of inquiry for the committee was, whether it was expedient to grant this mile square, on each side of the proposed route of the canal, towards defraying the expense of making it. If not, the inquiry would then be, whether other means could be placed at the disposal of the state, to execute the canals, &c.

Mr. CLARKE, of New York, observed, that there was already a resolution lying on the table, which had reference to the subject of canals generally, and he was desirous that that should be previously disposed of, as it would virtually include the object of the present resolution; and, under this persuasion, he moved to lay the resolution of the gentleman from Illinois, for the present, on the table.

Mr. MERCER, of Virginia, then rose, and observed, that he considered the resolution of the gentleman from Illinois a very reasonable one, and he thought that the subject to which it alluded had never been exhibited as it deserved. The Committee on Roads and Canals had already much to do, and could not devote to this individual subject as much time and attention as it deserved. If the motion to lay the resolution on the table prevailed, it would not be treating the resolution of the gentleman with the same fairness as had been shown towards others of a similar kind, several of which had already been offered, and all of them received a reference. He thought it was not the proper course to defer this subject till the general proposition should receive its discussion; it was very possible that the committee of the whole might reject that proposition (not as opposed to its principle, but esteeming it not the wisest that the case admitted of) and in the mean while much assistance might be derived from the report of a select committee on this subject, which would have a bearing on the general discussion.

The question was then put on Mr. ALLEN's motion for amendment, and carried—ayes 63, noes 57.

Thus the resolution was so modified as to refer the subject to the Committee on Roads and Canals. The question then recurring on the resolution as amended,

Mr. COOK, feeling extremely anxious that this subject should go to a select committee, and believing that, on further reflection, the House might be induced to reconsider the vote just taken upon the amendment, moved to lay the resolve on the table.

Which motion was agreed to, and the resolution ordered to lie on the table accordingly.

## AMENDMENTS TO THE CONSTITUTION.

Mr. STRONG, of New York, then rose, and said, it would be recollected by the House, that the gentleman from South Carolina, (Mr. McDUFFIE,) had given notice that, on Monday, the 3d of January, he would call up the amendment proposed by him at the last session, to the constitution of the United States, and that the gentleman from Louisiana, (Mr. LIVINGSTON,) had given notice that, when that amendment was taken up, he should call up an amendment to it, proposed by himself at the last session. Mr. STRONG now wished to propose an amendment to the amendment of the gentleman from

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*Amendments to the Constitution.—Niagara Sufferers.*

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Louisiana; the effect of which would be that, in the final vote for President of the United States in this House, the members, instead of voting collectively by states, should vote individually, as on any other question. Wishing to bring such a measure into discussion, he moved for the printing of all three amendments, (that of Mr. McDuffie, that of Mr. LIVINGSTON, and his own,) giving notice that he should move for the consideration of the whole subject on Monday next.

Mr. STRONG'S amendment is in the following words:

"1. The electors shall meet in their respective states, and vote, by ballot, for President and Vice President, one of whom, at least, shall not be an inhabitant of the same state with themselves; they shall name in their ballots the person voted for as President, and in distinct ballots the person voted for as Vice President; and they shall make distinct lists of all persons voted for as President, and of all persons voted for as Vice President, and of the number of votes for each, which lists they shall sign and certify, and transmit sealed to the seat of government of the United States, directed to the President of the Senate; the President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates, and the votes shall then be counted. The Person having the greatest number of votes for President, shall be the President, if such number be a majority of the whole number of electors appointed; and if no person have such majority, then, from the persons having the highest numbers, not exceeding three, on the list of those voted for as President, the House of Representatives shall choose immediately, by ballot, the President. A quorum for this purpose shall consist of two-thirds of the whole number of Representatives. Each Representative shall have one vote only; and a majority of the Representatives present and voting shall be necessary to a choice. And if the House of Representatives shall not choose a President, whenever the right of choice shall devolve on them, before the fourth of March next following, then the Vice President shall act as President, as in the case of the death or other constitutional disability of the President.

"2. The person having the greatest number of votes as Vice President shall be the Vice President, if such number be a majority of the whole number of electors appointed; and if no person have a majority, then, from the two highest numbers on the list, the Senate shall choose the Vice President. A quorum for this purpose shall consist of two-thirds of the whole number of Senators, and a majority of the whole number shall be necessary to a choice.

"3. But no person constitutionally ineligible to the office of President, shall be eligible to that of Vice President of the United States."

Mr. MERCER, of Virginia, said that he rose, not to oppose this motion, but to suggest that the period the most inauspicious that could be devised for seriously entering upon this question, was the present session. He was persuaded that no beneficial effect could be answered by taking it up. He believed, indeed, that nothing could be more detrimental to the harmony of the session, and to other interests, than now taking up this question. Under this impression, he rose to say that, for one, he should oppose the taking up this question on Monday next, and he hoped the House would be of the same opinion on that subject as himself.

The motion for printing was then agreed to.

#### NIAGARA SUFFERERS.

The House having resumed the consideration of the bill on this subject—

Mr. VANCE, of Ohio, then rose and said, that it was with reluctance that he presented himself before the House on this subject—and his doing so might perhaps demand from him some apology to those gentlemen,

who, coming from the State where these claimants resided, were more particularly connected, by their situation, with the present bill. But he had risen, because he had had, in his own person, some opportunity of an acquaintance with the facts of the case, and such was their impression upon his own mind, that he felt confident there was not a man on that floor, let him come from the North or the South, from the East or the West, who, if he knew the sufferings of these claimants, would not be in favor of granting them relief. The assertion might be thought a bold one, but he felt no hesitation in making it, and he now repeated that, had gentlemen been eye witnesses to what was suffered on that frontier, not one would refuse to relieve the sufferers. On most subjects, he felt as much disposed to economise the public resources as any member of this House; but he could never consent that, when he who had thrown open his door to receive a suffering, perishing American soldier, and in consequence of his hospitality he had had his house burnt to the ground, asked compensation from the American Government, he should be sent away unaided. Mr. V. said he felt his inadequacy to do justice to the subject, or to his own feelings, and he well knew that, after the able speeches which had been made in opposition to the bill, from men of the first standing in the country, whoever rose to advocate it, must expect to row against a strong current. But if the arguments of those gentlemen are not more specious than sound, he was greatly mistaken.

He proceeded then to notice, in the first place, the doctrine advanced by the gentleman from North Carolina, (Mr. WILLIAMS,) as to the policy of allowing these claims. [Here Mr. V. quoted Mr. W.'s speech, as reported in this paper; in that part of it which relates to the freedom of a citizen in choosing his abode on the frontier, and the comparative burdens of those on the border and in the interior.] Now, sir, said Mr. V. I say that this doctrine is more specious than solid. I hold a doctrine which I think more connected with patriotism and the best interests of our country, when I maintain that the sufferings of the citizen on the frontier should be made up to him by the rest of his countrymen.

The gentleman goes to the true ground, when he speaks of the doctrine of retaliation. Gentlemen may say what they will about national law, but the only true grounds on which to decide this question are those of self-preservation and retaliation. Mr. V. insisted, that two parts of the speech of the gentleman from North Carolina, were incompatible and contradictory. [Here he again quoted the report, in that part of it which relates to the devastations on the Chesapeake, where Mr. WILLIAMS refers to the President's letter to Cochrane, threatening retaliation if the outrages are continued.] Sir, that's the true doctrine—the only preservation of any country. We have heard much of national law, and we have abused the British from one end of the country to the other, and tried to excuse ourselves; but, sir, war is war; and where a commanding general goes in successful pursuit of an enemy, he is very apt to trample on your fine theories of the law of nations, and inflict on the enemy what injury he can. We have ourselves done it, and to as great an extent as any nation in the world, in proportion to our power.

The gentleman, in another part of his speech, has undertaken to illustrate his doctrine [Here Mr. V. quoted that part of Mr. WILLIAMS' speech] But, sir, has the gentleman forgotten our federal character? Is each part of this country, and is each man in it to protect himself? Is such a doctrine as this preached to us by the gentleman? Is the interior to be paid for marching to defend the frontier? Sir, if that gentleman should march from Norfolk to defend the most distant part of our frontier, he would only be marching, in effect, to defend himself. It is an acknowledged maxim, that it is better to fight an enemy in your neighbor's ground than on



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your own: and if the gentleman refuses to march to defend the frontier, when it is attacked by an enemy, he will soon find the frontier at his own door. The war which he refused to combat at a distance, will come home to his own threshold.

On the gentleman's principles, how could we, (in Ohio and Michigan,) have ever discharged the debt which they incurred to Kentucky? No, sir, we did not think in this manner when the war was in Michigan; our doctrine was, that the people of that territory were fighting our battles, and we went cheerfully to help them. Nor did the thought of their paying us for it, so much as enter our minds. Sir, the doctrine is fallacious, as much so as any that ever was advanced. Another position, assumed by the gentleman, is that which requires permanent occupancy of the property of an individual by the Government, in order to constitute a claim for indemnification. Sir, on that principle, not one sufferer in this Union, either by acts of the enemy, or of our own troops, would ever be indemnified. Yes, said Mr. V. there would still be one claim, (but he believed, even against that the Committee of Claims had reported, as occasioned by an unlawful act of the enemy)—he meant the case of that house on the River Raisin, which our unhappy fellow citizens did occupy until they were consumed by the flames by which it was destroyed.

The next argument of the gentleman was, that the people on the frontier were not so much to be pitied as they would have it believed; that they have not suffered so very much—nay, have rather been benefited by the war. Sir, I will say, that if that gentleman knew what was the true state of facts on the N. W. frontier generally, he would never have uttered such language. But, sir, he does not know it—the country does not know it—the country never will fully know it—the truth was withheld at the time from motives of policy—and, except to eye witnesses, it can never be known. I might appeal to the first men of this nation for my truth when I say, that, while the American army was lying at the French Mills, three men out of five who had slept in one tent, were more than once drawn out in the morning dead, being literally frozen to death for want of covering. The gentleman from North Carolina lives, himself, in a mild climate; but if he had seen that army encamped in the midst of snow more than three feet deep, and not half clothed, he would talk and feel differently. Sir, it was as necessary to give that whole district a military character, (so far as admitting the troops into the private houses could do this) as it was to provide clothing or subsistence for your army; and the enemy had as much interest in the destruction of the houses, as in that of your magazines. And, if losses sustained under such circumstances, do not call upon us for relief, I do not know what does, or can.

I will now say a few words on the subject of military occupation; and I contend, in the outset, that the deposition of General McClure is conclusive. Nor did the gentleman enforce the legal obligation which arises from it, in the way I think he ought to have done. What does General McClure say? [Here Mr. V. quoted his deposition, in which the remonstrance of the people of Buffalo against occupying their houses is mentioned, together with his reply.] Now, sir, I admit, that it may be doubtful how far a commanding General can compromise the government under which he serves by any promise or pledge that it will pay for acts of injury he may think it necessary to do; but it seems to be agreed by writers on that subject, that he has very extensive powers in this respect. I put this case: Suppose the American army had been formed in the rear of Buffalo; that, in the mean while, the British should attempt a landing there, having nothing between to shelter them from the American fire but the town; and suppose that, under such circumstances, the American commander had ordered every house in that town to be blown up, would not the Government be held liable to make the

damage good? Sir, there cannot be a question of it. [Mr. V. then quoted the opinion of Vattel, on the power of a military commander.] Here, sir, you find it held, that even for the act of a subaltern, an act which, as such, might be denied as being without sufficient authority, reparation must be made if demanded.

In further evidence of what was the extent of suffering on the frontier, Mr. V. said, that it was seriously recommended to Government by some of their ablest commanders, to remove the whole population from part of the frontier to the interior, and the support of them there at the public expense. Sir, this looks very little like that pleasant and prosperous condition in which the gentleman has represented these people to have been.

We have heard, said Mr. V. in continuation, much from the gentleman from Virginia (Mr. Barbour,) about perfect and imperfect obligation. But I appeal to that gentleman, himself, to say, whether there may not be some cases where an imperfect obligation is stronger and more perfect than perfection itself. Yes, sir, I repeat it—more perfect than perfection itself. I think, after the vote that gentleman gave in the case of Lafayette, he cannot deny this. Let me say to that gentleman, that, in the village of Buffalo, he might, on one day, have found a family well housed, well clothed, surrounded with every comfort of life, who, from its hospitality in throwing open its doors to the American soldier, was the next day houseless and homeless, destitute of all things: if he had chanced, eight months afterwards, to be wandering on the flats of the Ohio, he might there see a family scarcely covered by a wretched hovel, in squalid poverty, one day shivering with ague, and the next consumed with raging fever: if his compassion should lead him to enter and inquire into their situation, he would hear them say, our father lived in plenty and comfort, on the Niagara frontier—he saw the American soldiery ready to perish—he opened his door to take them in—and for that we are here, ruined, and in wretchedness. Sir, the sufferings of the French, on their retreat from Moscow, present not too strong a picture to convey a just idea of what was endured while the whole country on the Lakes was converted into one wide cantonment. Other districts suffered as well as Niagara, but none, by any means, in so great a degree. Had the gentleman seen an American regiment on that frontier drawn up on a frosty morning, and supporting arms while their limbs were chilled to the bone, standing, in their thin cotton dress, in snow two and three feet deep; had he seen these claimants opening their houses to receive men in immediate danger of perishing, (many of them did perish,) and afterwards turned out of house and home for doing it, he would not, he could not, deny that something ought to be done for their relief. I will not undertake to say how much, or in what way, but I do say that this House ought to do something. Sir, if we can get nothing from perfect obligation, we will accept it from imperfect, from charity if you please, but I do hope you will give it in some way.

The gentleman has insinuated, that the inhabitants of the frontier are actuated wholly by a principle of selfishness; that, unless stimulated by a sense of interest, they will do nothing in their own defence, and will surrender up their property an easy prey to the enemy. But, sir, that gentleman surely did not consider the feelings of the American people when he advanced such a sentiment. If nothing had operated on their minds but selfishness, the army of the frontier could not have been kept together a single day. No, sir, not a single day. There were our soldiers, lying naked and perishing on one bank of the Niagara river, while, directly opposite, they could see the British sentry parading backward and forward in a good comfortable watchcoat, and hear him cry out, cheerfully, "all's well." They had only to cross *en masse* to the British side, to exchange a lodging on the ground, in thin cotton that admitted the rain, and, when

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the rain was over, froze upon their bodies, for warm clothing and good quarters. Had selfishness been the ruling principle, where would have been your militia? Where would have been your regulars?—At their own homes, or over the British lines!

Mr. V. observed, in conclusion, that he was sensible he had delayed the committee too long, and he should only add that, if gentlemen were displeased with the present bill, he hoped that they would not, on that account, abandon the measure entirely, but draw a new bill, that should be less objectionable, and if they felt alarmed lest establishing any general rule might endanger the ruin of the Treasury, let them guard against the danger by granting a limited and definite sum of compensation to the claimants.

Mr. REYNOLDS, of Tennessee, next rose, and observed, on rising, that it had not been his fortune to witness the scenes which had been so handsomely depicted by the gentleman from Ohio; yet he had feelings and principles, and though he did not attempt to urge his own opinions as arguments upon the House, he thought it proper to assign his reasons for voting in favor of the bill. Much complaint, said he, was made of the law of 1816, and we were told that, in that act, the House had gone beyond all principles of the law of nations; and on similar grounds, we are warned against the present bill because a similar one is not to be found in the codes of foreign nations. But, admitting such to be the fact, our own statute books furnish a sufficient precedent. Look said Mr. R. at the horses, the bridles, the saddles, for which we have paid in the West; look at the negroes for which we have provided indemnity in the South. Are we to stop here? Shall we not provide something for the case of these suffering claimants in the North? We are told that the act of 1816 has impoverished the Treasury—but where, asked Mr. R. has the money gone? It was the People's money, and it has gone back to the People—it circulates at home. What injury has it done? Is not the country as flourishing at this moment as any country on the globe? Look at the condition of the Treasury. Can we not, through the able management of that Department, boast of a balance of three millions? It was the object of the law of 1816, not to reward the services of the citizen—it did not attempt that—but only to repair the losses he had endured in the service of his country. By carrying that law into effect, we shall hold out to the world that our country is grateful to those who serve her, and pities their distress. We shall enable the old warrior to say to his son: I have fought for a grateful country—go and do likewise.

Those who suffered from the military occupation of their premises, during the war, were surely as much entitled to relief as those who lost a horse or negro.

Here Mr. R. adverted to the evidence of the sufferings on the frontier as already placed before the committee—to whole villages occupied by our own troops, and by the burning of New Ark, exposed to the vengeance of an irritated and powerful enemy. Adverting to the letter of Secretary Armstrong authorizing that act, he said, let us not stand on names—he was the organ of the Government—the head of the War Department, and, as such, his letter authorized the burning of that village.

Mr. R. said he had had the honor of participating in the passage of the act of 1816—for he had witnessed all the steps of this claim since its first introduction—he had heard his friend from Kentucky say, and with too much truth, that the privilege of those sufferers to present their claims to this House, would be a privilege to have their claims rejected. Sir, the event shewed that he had spoken like a prophet. We have lately done one act of justice to a foreigner—(an act in which I am proud to say I had the honor and happiness of participating by my vote)—let us now do another to our own citizens.

Mr. NEALE, of M.I. then rose, and said, that as he had been one who assented to the present bill, it might not be deemed an intrusion upon the time of the committee, to state some of the reasons that had governed him in doing so—and, as the law of nations had been frequently referred to by the gentlemen who were opposed to the bill, he asked to be permitted to read from an approved writer, what was the language of that law. [Mr. N. here quoted Vattel, to show, that where property was destroyed by a nation's own Government, or its order, "deliberately and with precaution," as when houses are removed to erect a fortification, it must be paid for by the Government—as also what that writer says respecting injuries by an enemy, and debts of imperfect obligation.] This, Mr. N. observed, was national law, as recognized by European nations and here a distinction was made between injuries inflicted deliberately, and those by accident—the one created a perfect obligation on the Government for remuneration, the other appealed to the charity of the nation. By referring to the acts of 1816 and 17, it would clearly be perceived that the principle was established, viz: that if the Government occupied property, and made use of it for military purposes, and it was then destroyed, the United States must pay for it. Those acts created a perfect obligation. And was not this a just principle? And if it were not enacted then, ought it not to be now? Whether the United States destroyed the property itself, or by its act caused the enemy to destroy it, was immaterial. Such a case does not come under that clause of Vattel, which refers to accident. The occupancy is a deliberate voluntary act, and the law of 1816 and 17 says, that the Government must pay for the loss in such case. The reason of the law is, as has been stated, that property, while possessing a private and pacific character, is not liable to injury by the enemy, according to the rules of civilized warfare, but, as soon as the Government gives it a public and belligerent character, it is. Now it is necessary that the motive of the enemy in the destruction of any particular portion of property should, in some way, be established. But the acts of 1816 and '17 do not allow that the fact of its public occupation by Government shall be presumed to be of sufficient proof of this intention or motive of the enemy; the present bill does allow this: it remedies, in this respect, the great defect of the former laws. If the occupancy and the destruction are proved, it is enough—the one is presumed to be the reason of the other. In many cases it would be impossible to prove the motive of an enemy in any other manner.

Before he sat down, Mr. N. said, he would endeavor to point out what was the error of those who were opposed to the bill. They hold, that *continued occupation* by the Government is necessary to give a belligerent character to private property; that the occupation must continue up to the moment of destruction. But his construction of the law of nations, on this point, was, that the belligerent character superinduced on private property, by its occupation for public and military purposes, may continue after its actual occupation ceases, and this for a greater or a shorter space of time, according to circumstances. He would illustrate this by one case—he might easily adduce a thousand. Suppose the forces of the enemy to be advancing—with a view to stop him, Government seizes upon a private building, which lies in his line of march, fills it with troops, and uses it as a point of annoyance, with such success as to interrupt his progress: the enemy, perceiving this, makes a feint of marching in a quite different direction—succeeds in inducing our army to follow; and our army leaves the building: shortly after, the enemy suddenly counter marches—returns to the building which had proved such an obstacle in his way, and, reaching it before our troops, seizes and destroys it. He asked whether the occupancy here continued up to the time of

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destruction? Certainly not. Yet was not the building destroyed solely on account of the warlike character occasioned by the occupancy? Assuredly. And was not the Government as much bound to pay for the building as if the occupation had continued? It would be easy to multiply examples. The true principle, then, was this: that, if the occupation by Government gave a public character, and at any time during the continuance of that character, the property was destroyed, the Government is bound to indemnify the owner. The *quo animo* with which the enemy destroys, must be presumed from the change of character in the thing destroyed. If you will not admit this, your law is illusive: it promises to pay if the *quo animo* is proved, but it refuses to receive the only proof the case admits of.

Mr. BUCK, of Vermont, said, that he did not rise to debate the general principle of the bill, but to correct a material error in point of fact. The error was so important, that, when it was shewn, it would appear that the advocates of the bill had been going wholly on an assumed state of the facts, which in reality had no existence. The gentleman who introduced the bill went so far as to say, that he rested the cause of the claimants on this one point, viz: that the reason of the destruction of property had been its occupation by the Government; and, having established the fact of such occupation, he seemed to conceive that the claim was made out. But, Mr. B. said, he had in his hand a document to show conclusively that the ravages of our frontier were not caused by the occupancy by our army, but were inflicted entirely on a principle of retaliation, in consequence of the burning of Newark. This document was the proclamation of Gen. Prevost, the officer who commanded the British forces at the time, and who, he believed, directed, and in person superintended, the work of destruction. [Here Mr. Buck quoted the proclamation, in strong terms denouncing the conduct of this Government, and justifying the devastation of the Niagara frontier.] Thus it appears that we are not driven to presume the motive of the enemy; we have it in express terms, declared by himself. He should not attempt to discuss the subject at large—he thought such a representation of facts as was contained in the testimony, coming almost wholly from parties interested, was not to be put in competition with a public document such as that he had just quoted. This changed the state of the question. It was not now to be settled, whether this Government was bound, because its acts had changed the character of the property—but whether it was bound to remunerate the sufferers for injuries inflicted by the enemy on a principle of retaliation. On this discussion, Mr. B. said, he should not enter, but only observe, that, if we admit that payment is to be made on the principle of retaliation, we, having been the beginners, by burning Newark, are of course bound to pay.

Mr. STORRS, of New York, rose to call the attention of the House to what were really the facts of the case now before it, however perverted by the document which had just been quoted. It was true, he said, that, in that proclamation, the pretext for the devastation of the Niagara frontier was the destruction of Newark, but, in his judgment, it never was the real cause of it. Whoever looks to the situation of that frontier, and the history of the War with Great Britain to that period, must be satisfied that that document deserves no other character than that of mere hyperbole. It was not issued until after the burning of the Niagara frontier, when it had become necessary to give to the civilized world some plausible pretext for such an act as burning that frontier. Mr. S. reviewed the facts which attended the destruction of Newark &c. We had considered the Niagara frontier generally as a point from which the Canadian frontier could be most easily invaded. We had made the experiment, not without the loss of blood. The enemy had similar objects on the North Western

frontier. Our advances on the Niagara country were in some instances intended to create a *diversion*—to distract the attention of the enemy, and turn him from the invasion of the frontier of Ohio, to the protection of his own territory. One great object of the invasion by us of the Niagara frontier, he had always understood, was to protect the frontiers of Ohio, and of the states west of it; and he had himself no doubt that one great object of the devastation of the Niagara frontier by the enemy, was to prevent its occupation as a military station, from which Canada might be invaded. When Newark was burnt, the British commander, who sought for a pretext for the destruction, thought he had found it in the burning of Newark; by availing himself of which, he could throw the odium of his conduct on the United States, whilst his real motive was very different from his avowed one. That, said Mr. S. was the real history of the proclamation, which was relied upon as an argument against the claimants now before the House. Their object was to secure themselves from our incursions. They accomplished it: they did, by the devastation of the Niagara frontier, secure themselves, until a larger and better appointed force penetrated their frontier, &c.

I did not rise to discuss the question now before the House, said Mr. S. but, since I am up, I may as well say a few words upon it. I think that the principle of the bill is carried too far; and had I been one of the committee who reported it, I would not have given my assent to it. But, if we vote to strike out the first section of the bill, being willing to legislate at all on the subject, we shall lose the opportunity of shaping it to our wishes. The question involved in this bill, Mr. S. remarked, had been called a question of perfect or imperfect obligation. That, he said, was not the question. The property of a citizen appears, by the usages of nations, to be exempted from destruction by an enemy, unless, by giving up his property to public use, he has converted it from a private to a public character. Now, when a citizen has given up his house for the public use, and it is destroyed by reason of such conversion, an obligation is created upon the Government to indemnify him for the loss—Mr. S. spoke not of the obligation of a bond, but of the moral obligation, arising from natural justice, which constitutes an obligation in the meaning of the law of nations. What is the obligation of the Government to the citizen who has given up his property for its use? It is this: you have converted his dwelling-house into a public building—you have changed its character—to accommodate the public, you have destroyed its sanctity as a private building—you have rendered it liable to destruction—you have divested it of the character which, by the law of nations, would have protected it. What then is the Government bound to do? To say to the individual so circumstanced, As you have rendered up your property for our use, we are your insurers: After you have placed yourself out of the protection of the law of nations, you shall not suffer by having done so. This, said Mr. S. is what I call a perfect obligation—a perfect moral obligation. The question for indemnity for losses sustained under such circumstances, is a question, not of charity, but of absolute right: the whole of it turning on the principle that the party has, for your use, exposed his property to destruction lawfully by the enemy. It is unjust, morally, that one who has thus surrendered up, and exposed to destruction, his property, on account of the public, should himself suffer that loss thereby which the public ought to bear. When you take the property of a citizen for public use, during war, you become the insurer of it against every act of the enemy, *lawful or unlawful*, and for this reason: that, when he has once surrendered his house into your possession, it is no longer his dwelling house; the property then belongs to the public, and not to him. Now, said Mr. S. if there be any definition of perfect obligation, which does not include this, it is beyond my conception.

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Congress had, indeed, he said, frequently legislated under a sense of this obligation. We have in existence a law, by which, if a citizen loses arms in the service—arms which, by law, he is obliged to supply himself with—you consider yourself under an obligation to pay him for his property so lost. So, too, we pay for the loss of horses in service, of accoutrements, and of boats in public employ. These, Mr. S. said, were plain principles, to his mind; and, if there be such a class of cases among the claims for losses on the Niagara frontier, Congress was morally bound to provide remuneration for them. He asked of any gentleman to tell him where were the public barracks, during the late war, on the Niagara frontier; or whether he has ever heard of a single public building on that frontier, excepting fort Niagara, during that period. Yet the troops of the United States were comfortably lodged. Where was the arsenal of the United States on that frontier? Where were the stores deposited? Where, except in dwelling houses? The hospitals, too, were in the dwelling houses at Buffalo, and the inhabitants of that village were the nurses of the sick soldiers. Are we to be told, said he, that this was not a military occupation? Is this what is called a casual or temporary occupation? Either the property of individuals was occupied, or we must come to the conclusion that the troops were not lodged, and that all the ammunition, the hospitals, and military stores, were in the open air. There must, he said, be some class of cases on that frontier, for the loss of which the Government is, by the most perfect obligation bound to provide.

If the first section of the bill were stricken out, it would be declared that there was no claim to indemnity on the part of any of the sufferers by destruction of property on the Niagara frontier. Although, therefore, he was opposed to the bill as it now stood, thinking the principle too broad, and that the House ought not to pass a bill to indemnify all losses without discrimination, still he thought the bill might be modified so as to make it just and reasonable; and he was, therefore, opposed to striking out the first section of the bill.

The committee then rose, reported progress, and obtained leave to sit again; and

The House adjourned to Monday.

IN SENATE, MONDAY, JANUARY 3, 1825.

#### INLAND TRADE BETWEEN MISSOURI & MEXICO.

Mr. BENTON rose, and stated to the Senate that he had received a paper which he took the liberty of presenting. It was a statement of facts in relation to the origin, present state, and future prospects, of trade and intercourse between the Valley of the Mississippi and the Internal Provinces of Mexico. Intending, for a year past, to bring this subject before the Senate, and to claim for it a share of the national protection, Mr. B. said, that he had felt the necessity of resting his demand upon a solid foundation of facts. With this view, he had addressed himself, during the last summer, to many inhabitants of Missouri, who had been personally engaged in the trade; among others, to Mr. Augustus Storrs, late of New Hampshire, a gentleman of character and intelligence, every way capable of relating things as he saw them, and incapable of relating them otherwise. This gentleman had been one of a caravan of eighty persons, one hundred and fifty-six horses, and twenty-three wagons and carriages, which had made the expedition from Missouri to Santa Fe, (of New Mexico,) in the months of May and June last. His account was full of interest and novelty. It sounded like romance to hear of caravans of men, horses, and wagons, traversing with their merchandise the vast plain which lies between the Mississippi and the *Rio del Norte*. The story seemed better adapted to Asia than to North America. But, romantic as it might seem, the reality had already

exceeded the visions of the wildest imagination. The journey to New Mexico, but lately deemed a chimerical project, had become an affair of ordinary occurrence. Santa Fe, but lately the *Ultima Thule* of American enterprise, was now considered as a stage only in the progress, or rather, a new point of departure to our invincible citizens. Instead of turning back from that point, the caravans broke up there, and the subdivisions branched off in different directions in search of new theatres for their enterprise. Some proceeded down the river to the *Passo del Norte*; some to the mines of Chihuahua and Durango, in the province of New Biscay; some to Sonora and Sinatoa, on the Gulf of California; and some, seeking new lines of communication with the Pacific, had undertaken to descend the Western slope of our continent, through the unexplored regions of the Multnomah and Buenaventura. The fruit of these enterprises, for the present year, amounted to \$190,000 in gold and silver bullion and coin, and precious furs; a sum considerable, in itself, in the commerce of an infant State, but chiefly deserving a statesman's notice as an earnest of what might be expected from a regulated and protected trade. The principal article given in exchange, is that of which we have the greatest abundance, and which has the peculiar advantage of making the circuit of the Union before it departs from the territories of the republic—cotton—which grows in the South, is manufactured in the North, and exported from the West. Mr. B. said, that the attention of the Senate had already been drawn to this subject, and the Committee on Indian Affairs stood charged with an inquiry into the expediency of treating with the Indian tribes between Missouri and Mexico, for the right of a safe passage through their countries. The paper presented contained information essential to that committee. It contained precise information upon the route to be pursued, and the tribes to be conciliated. It contained, besides, authentic details upon the extent and value of the trade, and suggestions for its protection. It had been drawn up at his particular request, and in answer to queries proposed by him. He deemed it the fairest, safest, and most satisfactory manner of conveying to the Senate the body of facts on which he should rely when the question of extending protection to this trade shall be called up for decision. He therefore moved, that the statement of Mr. Storrs might be printed for the use of the Senate, and referred to the Committee on Indian Affairs. The motion was agreed to.

#### LAFAYETTE

Mr. SMITH, from the Joint Committee appointed to announce to General Lafayette the passage of the act in his favor, and to request his acceptance of the provision made for him, reported to the Senate the following copy of an address of the committee to the General, and his reply.

*From the Joint Committee to General Lafayette.*

GENERAL: We are a Committee of the Senate and House of Representatives, charged with the office of informing you of the passage of an act, a copy of which we now present. You will perceive from this act, sir, that the two Houses of Congress, aware of the large pecuniary as well as other sacrifices which your long and arduous devotion to the cause of freedom has cost you, have deemed it their privilege to reimburse a portion of them, as having been incurred in part on account of the United States. The principles that have marked your character will not permit you to oppose any objection to the discharge of so much of the national obligation to you as admits of it. We are directed to express to you the confidence, as well as the request, of the two Houses, that you will, by an acquiescence with their wishes in this respect, add another to the many and signal proofs you have afforded of your esteem for a people, whose esteem for you can never cease until they have ceased to prize the liberty they enjoy, and emulate the virtues by

H. of R. &amp; Sen.]

*Gratitude to Lafayette.—Imprisonment for Debt.*

[JAN. 3, 1825.]

which it was acquired. We have only to subjoin an expression of our gratification in being the organs of this communication, and of the distinguished personal respect with which we are, your obedient servants,

SAMUEL SMITH,	} Committee of the Senate.
ROBT. Y. HAYNE,	
D. BOULIGNY,	
WM. S. ARCHER,	
S. VAN RENSSELAER,	} Committee of the House Reps.
PHILIP S. MARKLEY,	

Washington, Jan. 1, 1825.

## GENERAL LAFAYETTE'S REPLY.

Gentlemen of the Committee of both Houses of Congress :

The immense and unexpected gift, which, in addition to former and considerable bounties, it has pleased Congress to confer upon me, calls for the warmest acknowledgments of an old American soldier and adopted son of the United States—two titles dearer to my heart than all the treasures of the world.

However proud I am of every sort of obligation received from the people of the United States and their Representatives in Congress, the large extent of this benefaction might have created in my mind feelings of hesitation, not inconsistent, I hope, with those of the most grateful reverence. But the so very kind resolution of both Houses, delivered by you, gentlemen, in terms of equal kindness, precludes all other sentiments but those of the lively and profound gratitude of which, in respectfully accepting the munificent favor, I have the honor to beg you will be the organ.

Permit me, also, gentlemen, to join a tender of my affectionate personal thanks to the expression of the highest respect, with which I have the honor to be,

Your obedient servant,

LAFAYETTE.

Washington, Jan. 1, 1825.

The Senate took up for consideration the bill "for the relief of Thomas L. Ogden and others," [appropriating 3,710 dollars to indemnify the petitioners for wood taken from their lands contiguous to the village of Sackett's Harbor, and consumed by the army of the United States, during the late war.]

Mr. CHANDLER opposed the bill, on the ground that the public naval and military establishments, formed at Sackett's Harbor, by the Government, had imparted a value to that place, and to the lands in its vicinity, much greater than the alleged damage done to the petitioners; further, that, so far from the use of the timber by the army, now proposed to be paid for, being an injury, it was a real benefit to the claimants—as every one knew who was acquainted with the labor of clearing new land; and that, in fact, the consumption of the wood in question, was worth at least ten dollars an acre to the land from which it was removed.

Mr. RUGGLES and Mr. VAN BUREN advocated the justice and equity of the claim. It had twice passed the House, but had not got through both Houses for want of time. The claim was originally for 7,000 dollars, but had been reduced to the sum now proposed, of \$3,110, to which the petitioners were fairly entitled, in the opinion of the committee that reported the bill, &c. The debate continued some time; when,

On motion of Mr. KING, of Alabama, the bill was laid on the table, to give opportunity for a further examination of the facts of the case.

The Senate, according to the order of the day, proceeded again to the consideration of the bill abolishing imprisonment for debt—the motion of Mr. COBB to strike out the following clauses from the first section, viz. "But, after the return thereof, the defendant or defendants may contest the allegation of the said oaths or affirmations, before the court in which the said suit or action is instituted, in such form as the court shall prescribe. And if the court shall be of opinion that the

said allegations are not well founded, it may make an order, to be entered on record, discharging the said bail or security from his or their suretyship;" being still under consideration.

On this motion the debate was resumed and continued some time. Messrs. JOHNSON, of Kentucky, and BARBOUR opposing the amendment, and Messrs. COBB, BRANCH, and BROWN, of Ohio, supporting it.

The question on striking out the clauses was finally decided by yeas and nays, as follows:

YEAS—Messrs. Bell, Brown, Chandler, Clayton, Cobb, D'Wolf, Dickerson, Edwards, Elliott, Gaillard, King, of New York, Lloyd, of Md. Lloyd, of Mass. M'Ilvaine, Mills, Noble, Palmer, Parrott, Ruggles, Seymour, Thomas—21.

NAYS—Messrs. Barbour, Barton, Benton, Bouligny, Branch, Eaton, Findlay, Holmes, of Me. Jackson, Johnson, of Ky. Johnston, of Lou. King, of Alab. Lanman, Lowrie, M'Lean, Macon, Smith, Talbot, Tazewell, Van Buren, Williams—21.

The Senate being equally divided on the question, the motion was, of course, lost.

Various other amendments, of inferior importance, were offered to the details of the bill, some of which succeeded, and others were lost—in the proposition or discussion of which Messrs. COBB, MILLS, VAN BUREN, BROWN of Ohio, and JOHNSON of Ky. took part.

Before the bill was gone through, the Senate adjourned.

## HOUSE OF REPRESENTATIVES—SAME DAY.

Mr. LIVINGSTON, of Lou. offered the following:

"Resolved, That a committee be appointed to consider and report on the expediency of establishing an Academy for instruction in those sciences necessary for the service of the military marine; with power to report by bill or otherwise."

Mr. WILLIAMS, of N. C. suggested that it would be more proper that this resolution should go to the Committee on Naval Affairs, than to a select committee.

Mr. MERCER, of Va. said, that he had had the honor of submitting a resolution, similar to that now presented by the gentleman from Louisiana, at the last session of Congress; it had been referred to the Committee on Naval Affairs, but, owing, as he presumed, to the pressure of business before that committee, nothing had been done respecting it till the middle of the session, and it proved too late to be acted on. He considered no subject as more important and more worthy of the consideration of the House, than a provision for the instruction of those who are to uphold the naval glory of the country.

Mr. FULLER thanked the gentleman from Virginia for his suggestion to save the time of the Committee on Naval Affairs, but he could answer him, that he was mistaken if he supposed that the resolution he offered at the last session had been neglected by that committee. It had received mature consideration—and the measure it proposed had been engrafted in a general bill for the reorganization of the Navy Department; but that bill had been pressed out by other business, and now lay over; he hoped it would receive an early attention during the present session. Believing that this would be the case, he moved to lay the resolution on the table.

The SPEAKER decided, that, inasmuch as the subject-matter of the resolution was before the House in another form, the resolution was out of order.

Mr. LIVINGSTON inquired, whether the bill, in which the gentleman from the Committee on Naval Affairs (Mr. Fuller) had stated this subject as being included, did not contain sundry other matters, and whether, by being thus entangled with matters foreign to itself, and possibly of doubtful practicability or expediency, any measure might not be easily, and forever, de-



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feated? He felt convinced that such had been the case in the present instance. It was the connexion of his proposition with other features in the naval bill, which had prevented its being taken up by the House. He, therefore, submitted whether, under this view of the subject, his motion for a separate inquiry into this subject, was not in order.

The SPEAKER adhered to his decision, and explained the rule of order, but suggested that other modes of attaining the same object might be resorted to.

The question was then put, and the resolution was laid upon the table.

Mr. ARCHER, of Va. from the joint committee appointed to communicate to General LAFAYETTE the act passed for his benefit, asked and obtained leave to report—when he submitted copies of a letter from the committee to the General, and his reply, (as will be seen in the account of the Senate proceedings,) which, on motion of Mr. CONDICT, were entered at large on the Journals of the House.

#### NIAGARA SUFFERERS.

The House then proceeded to the order of the day, and went again into committee of the whole, Mr. CAMPBELL, of Ohio, in the chair, on the bill for the relief of the Niagara sufferers.

Mr. CADDY, of New York, then rose, and observed, it was but seldom that he obtruded himself upon the attention of this House, but being a citizen of the state of New York, and having had an opportunity of knowing something of the merits of the petitioners in this case, he could not consent to give a silent vote. I once, said Mr. C. entertained an opinion nearly similar to the one expressed by the honorable gentleman from North Carolina. I once believed that exaggeration had magnified the sufferings and multiplied the losses of these petitioners—but, sir, that day of ignorance has gone by. It was once my duty, in the Legislature of New York, to examine this subject, and I do assure the honorable gentleman from North Carolina, and this committee, that, as regards the losses of these petitioners, and the miseries they endured, the truth has never been half told. I am not now disposed to enter into a disquisition whether this claim is to be classed under the head of a perfect or imperfect obligation; the black letter reading of Coke or of Blackstone, will have but little influence in determining my vote. Nor, sir, shall I consult the musty pages of Grotius or Puffendorf, to know for what losses those gentlemen are pleased to say, Governments are bound to pay. But, sir, I have asked my conscience whether I believe this Government ought to do something for these claimants, and whether we are prohibited from doing it. I have also read the Constitution of my country, and in the preamble I am told that it was adopted "to promote the general welfare." I believe our right to do something has not been disputed. Why not then do it? One honorable gentleman seems to suppose that the occupancy by our army of the buildings destroyed, was not the cause of their destruction. What then, supposing it to be true, will you furnish no relief?

Are our hands tied down and manacled, so that we dare not touch one cent in the Treasury? This has not always been the case. The moneys heretofore given to alleviate great calamities, the grants heretofore made and appearing on your statute books, speak a different language. The select committee, in their report upon this subject, has called our attention to some other grants:

\$8,500 to the citizens of Pennsylvania, who suffered losses by the wanton violence of some of her misguided and misinformed inhabitants.

24,000 acres of land to the settlers at Gallipolis, because some speculators had cheated them.

\$15,000, to unfortunate emigrants from Hispaniola.

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\$50,000, to the inhabitants of Venezuela, whose effects were swallowed by an Earthquake.

And, sir, within a few days we have paid a debt of \$200,000, as due to Republican principles, and the cause of liberty. But, sir, have gentlemen read the proof accompanying the report of the committee? If they have, I fondly hope their doubts, as to the cause of the destruction of the buildings, have been removed. The presumption is so strong, sir, as to amount to what is called a violent presumption. I think honorable gentlemen ought not to entertain any doubts on this subject. The destruction of the buildings, however, is said to have been an act of "retaliation," and if so, this Government ought not to pay for them. And to prove this, a Royal Proclamation of a Royal Governor of his most Royal Majesty, has been read. But, sir, I intend to spend no time in examining that wonderful production; my honorable colleague and friend has disposed of that, satisfactorily, I trust, to the minds of this committee. I will only say, that it was a "Salvo," a contemptible ebullition, to satisfy the compunctious visitings of a guilty conscience. Humanity has already passed judgment upon the act, irrevocable as time, lasting as eternity.

I have been instructed by the Legislature of New York, of which I am a citizen, to advocate these claims. I do it most cheerfully, regretting only my feeble powers. She asks you to alleviate, in some degree, the losses of a portion of her citizens. She has long since extended her charitable hand—she asks you to do equal and exact justice—she has seen you pay for losses in the West and in the South—she has seen your western dragoons remounted, and the negroes of the southern planter restored. Will you now listen to her application? Are there any more "constitutional objections" in the way? I well remember the time when she applied for your assistance, in the formation and completion of a work which history has already recorded as the proudest monument of the age. But, sir, I do not wish to digress; rest assured, that, in the state of New York, from Erie to Long Island, there is an universal prayer that we shall do something for these Niagara sufferers. If gentlemen suppose the bill to be too broad, let us amend it in the spirit of charity—let us say, "come let us reason together," but do not let us any more, with a cold tombstone charity, say to those suffering petitioners, "be ye fed and be clothed." The honorable gentleman from Ohio has, in a warm, vivid, and glowing manner, peculiar to himself, described some of the sufferings of these petitioners. About two hundred inhabited dwellings were entirely consumed; they contained, probably, upon an average, from six to eight souls. From 12 to 1600 human beings, with the aged father, the helpless mother, the infant in the cradle, were involved in one promiscuous labyrinth of woe. At that most inclement season, when the cold northern blasts of winter chill to the very soul, were these claimants bereft of a home, without a shelter but the broad canopy of Heaven, the cold earth their bed. Their sufferings may be imagined—they cannot be described. Many, to be sure, have gone to their long home, but many still remain looking up to us, and fervently imploring us to alleviate, in part, their distresses. Let us do it; we need not fear the consequences. No nation ever suffered by doing great, humane, and generous acts. They tend to engage the affection, and rivet the attachments of the people. Let us, then, sir, do something worthy of this nation, and rest assured that the American people will not only hail you as upright and able statesmen, but also as noble, generous, and charitable.

Mr. SHARPE, of New York, expressed a wish that the gentleman from Virginia, (Mr. P. P. BARNUM,) would withdraw his motion to strike out the enacting clause of the bill, as the time spent in discussing it would prove, in a great measure, time lost, if the House re-

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fused to agree to the motion, since the bill would then have to undergo amendments, and all the discussion would have to be gone over again. Whereas, if the motion to strike out the enacting clause were suspended, until its friends had had a fair opportunity to render the bill as perfect as they could, it might then be put, and the sense of the House as well, and better, taken upon it, than in the present stage of the bill.

Mr. P. P. BARBOUR observed, in reply, that he had made the motion to strike out the enacting clause on a principle which he had invariably followed, viz. to save the time of the House in discussing the forms of a measure. when he believed that the measure itself, from its principle, would be rejected. He did not agree with the gentleman from New York, that the time which was occupied in discussing such a motion was time lost. The amendments might as well be engrafted after the general principle of the bill had been discussed as before, and that discussion might itself suggest amendments; but, as the gentleman from New York requested him to withdraw the motion, and considerable discussion had already been had upon it, he would not refuse. Mr. B. accordingly withdrew the motion to strike out the enacting clause of the bill.

Mr. STORRS then rose, and said that he was opposed to the amendment of the gentleman from Ohio, (Mr. WRIGHT,) inasmuch as all the difficulty which had hitherto occurred to retard the settlement of these claims, has sprung out of a phrase in the bill of 1816, almost word for word the same as that now proposed by the present amendment. And whoever had attended to the reports of committees of this House, on the various individual claims which had been submitted, for injuries by the enemy, would perceive that the rejection of those claims had almost invariably turned on this same idea, viz. that it did not appear that the occupation by the United States was the cause of the destruction: a point which former acts required to be proved affirmatively, which the present bill did not require to be proved; but which it was the effect of the amendment again to bring in question. Mr. S. maintained that this was not a proper point to be inquired into; the only point material in the claim, was, whether a citizen, by surrendering his property to the use and occupation of his Government, had divested it of its private character, and whether, under such circumstances, it had been destroyed. If these two facts were shown, the Government was bound to make up the loss; but the moment you go a step beyond this, you meet an artificial difficulty of your own creating. Where private property, indeed, retaining its private character, becomes the subject of depredation by the enemy, as when the vessel of a merchant is unlawfully captured, or his goods wasted and destroyed, the case, though a hard one, gives no claim upon the Government for indemnity; it comes under the general case of losses in war, and must be borne as it may. But as soon as he, by his voluntary act, gives up his property to public use, it becomes as much an instrument of war as a cannon is. It is part of the *matériel* of the war, and the enemy may inflict upon it what injuries he will, lawful or unlawful; he may even destroy it in sport. It does not touch the question of indemnification; the fact of the destruction is a plain one, susceptible of ample proof; but the moment you leave this to inquire into the motives of the enemy, you enter on a field of speculation and uncertainty. If the House shall reject the amendment now proposed, this will be avoided. Mr. STORRS then moved to amend the bill by striking out that clause which grants indemnity, provided the property "*had been at any time during the war*" in the occupation of the United States, and substituting the proviso, that it was in such occupation "*at the time of its destruction, or immediately before.*"

Mr. WRIGHT, of Ohio, then said, that, as he was advised that the gentleman from New York, who had just taken his seat, as well as other gentlemen, had prepared amendments to the bill, in order to give them an opportunity of submitting them, he would withdraw that now under consideration, stating, at the same time, that he had himself also prepared another amendment, which he should present at the proper time.

Mr. WRIGHT'S motion for amendment having been withdrawn, and the question being on that offered by Mr. STORRS,

Mr. FORSYTH, of Georgia, observed, that he did not think he correctly understood the object of the amendment. He went into a recapitulation of what had previously been done on this subject—the act of 1816—the powers of the commissioner—his decisions—the interposition of the President, and the subsequent act of 1817. By this act, it was required to be proved that the property was occupied by order of an officer of the United States; and, as he understood, all the claims which had been brought under the provisions of this act had been paid. The object of the claimants now seemed to be to undo the restrictions of the law of 1817, and restore them and their claims to the same state as they were under the act of 1816. Now, the act of 1816 had been extended by the commissioner to all property occupied with or without an order of any United States' officer; and, if such was, in any way, the object of the present bill, or of the amendment, he should be opposed to it in toto, knowing, as he did, the abuses to which the extraordinary decision of the commissioner would have led.

Mr. MARVIN, of New York, rose, in reply, and said that it was not the object of the present bill, or of the amendment, to establish any new principle. He thought the gentleman from Georgia had not stated the case quite fairly. It was true that the commissioner's proceedings had been arrested, and that a new law was passed, establishing a different rule of adjudication, and empowering him only to examine and report. Under this law, a new commission issued to two members of this House, and another gentleman of great talents, to whom was added an agent of the United States. These gentlemen repaired to Niagara, and, in their examinations and report, were governed by the law of 1817. They took ample testimony—they made a detailed report—they did both by the authority of this House; but there their powers stopped, and there this House stopped also; for, after receiving that report, nothing had been done—not a dollar was granted for settling the claims. Last session, a committee, indeed, had been appointed to inquire what it was proper to do in the matter, and the report of that committee is before the House, and they propose the present bill, not to set up any new principle, but merely to carry the former acts into effect. Why did the House order them to report, if it was not intended to follow up their report with some corresponding measure? Not one of these claims had been paid since 1817, and they were so numerous that it was utterly impracticable for Congress to deliberate upon them singly. Some general act was requisite to carry the rule the House had laid down into some practicable effect. Such was the simple object of the present bill. Its friends, indeed, did wish to get rid of an objectionable phrase in one of the former acts on this subject, which provides that the occupancy of the property must have been the cause of its destruction. Under that law, if a claimant comes and proves both the occupancy of his dwelling by United States' troops or magazines, and its destruction by the enemy, he is answered "Ay, but you have not shown that the one was the cause of the other." If he attempts to prove this by inference, it is objected that the destruction was on a principle of retaliation for the burning of Newark.

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If he attempts to show that whole villages were burnt, he is again told that neither the occupancy by United States' troops, nor the burning of Newark was the cause, but only the predatory character that marked British warfare in former wars as well as the present. The claimant is sent to examine the mind, and to probe the conscience of the enemy, and tell what his true motives were. It was from such a requirement that the present bill sought to free these unhappy sufferers, many of whom had endured a second desolation in consequence of the legislation of this Hall. The acts of 1816 and 1817 led them to expect indemnification; and the expectation was a just one; it was founded in their confidence in this House, and the execution of its laws. In consequence, they had begun to rebuild their burnt buildings, and had incurred responsibilities by doing so. The execution of those acts was suspended; the time of payment for their repairs came round. The same citizen who had once been stripped by the enemy, had to see his property a second time swept away by judgment and execution.

He did not mean to enter into the discussion of the general principles of the bill; but surely the Government had fully settled it by its own act respecting the destruction of Newark. He knew that act had been disavowed by the Government; he should not express any opinion on the question, whether the act was or was not a justifiable one; but he would call the attention of the House to the letter of the Secretary of War. [Here he quoted the letter.] Now I do not say, observed Mr. MARVIN, that the act of burning was in obedience to this letter. The letter says that it might become necessary. I admit that it was not unavoidable; for at the same time we burnt the village, we evacuated Fort George. All I insist on is, that, in that letter, the principle was recognized, that the burning of a village might become necessary in the lawful prosecution of a military enterprise. Did the Secretary apprehend any danger that the buildings and houses of Newark should arrange themselves into battalions, and march against our army? No; but he knew that they protected the British forces. Shortly after our troops evacuated the British territory, they entered ours, and took Fort Niagara. Now, said Mr. MARVIN, suppose that the taking of that fort had been followed by a letter of precisely the same import as that of our Secretary of War, where would be the difference of the cases? (Experience had shown that the villages on both sides were a covering to the troops; and the British order might have expressly referred to the fact that, in 1812, the whole frontier was converted into one great castrament.) Sir, the act was done: and I contend it was done on the self same principle as our own act in burning Newark.

He was happy to find that the gentleman from Georgia was disposed to acquiesce in the principles of the acts of 1816 and 1817; and when that gentleman discovers that he was mistaken in supposing that the claims under those acts had been paid, he will allow that a law which provides for their payment is every way just and necessary.

Mr. FORSYTH said he did not know whether any of the persons, whose case came fairly within the provisions of the acts of 1816 and 1817, had been paid. He was perfectly certain that those who came within them were entitled to be paid, and he considered it to be the duty of the House, when the cases were fairly made out, to pay them. But, he asked, what is now the question? Not to pay those who, under those laws, are fairly entitled to be paid, but to alter the law, and embrace in a new enactment cases expressly excluded by those two acts. After taking a brief review of the history of the act of 1816, and the adjudications under it, Mr. F. said that gentlemen had mistaken their remedy altogether, if, as the gentleman suggested, these cases were em-

braced within the principle of existing laws. The effect of the present bill would be to embrace cases which the Commissioner of Claims was about to allow, and would have allowed, but for the interference of Congress, and some of which, indeed, were allowed, without, in his opinion, any color of authority by law. The bill now before the House embraced, in fact, a new principle, recognizing a vast number of the claims, covering he knew not what amount of money.

Mr. MERCER, of Virginia, said this appeared to be a proper moment for correcting an error which had been fallen into by several of the gentlemen who had spoken, and lastly by the gentleman from Georgia, relative to the course of the Commissioner of Claims under the act of 1816. Mr. M. said he was authorized by the document which he held in his hands to aver, that the Commissioner had put no construction upon that act but what had received the sanction of the President of the United States. As soon as he took possession of the office to which he was appointed, the Commissioner addressed four queries respecting the construction of that act, to the Attorney General of the United States, who returned for answer that he did not think himself bound, in the discharge of his official duty, to answer those queries. What did the Commissioner then? He addressed a letter to the acting Secretary of War, who did furnish him with an exposition of the views of the Executive on this question. What was the exposition? It was precisely that which the member from New York had now put upon the law. Mr. M. here quoted the documents to sustain this statement of the facts. He read also part of another document, being a letter addressed by the Commissioner to the Secretary of War on the 1st of November, 1816, in which he says he feels it to be his duty to conform his decisions to any construction of the law which the President should think the proper one, and that he would make no other decisions under it, until he should receive further instructions on that head. How could it be said, under these circumstances, that decisions had been made by the Commissioner, under that act, without any color of authority?

Mr. M. here reviewed the history of the decisions, the great number of them, and the considerable amount which they involved, which reduced Congress to the alternative of revoking the law, so as to shut out the cases not yet allowed, or that of laying by the cases for further consideration. The latter course was preferred, and, by causing testimony to be taken in regard to the destruction of property at Buffalo, &c. a hope was held out to the claimants that the same measure would be dealt out to them as to others similarly situated, whose claims had been allowed before the execution of the original law was suspended.

Upon the question whether the laws of civilized war justified the destruction of the Niagara frontier, Mr. M. expressed the decided opinion that the usage of civilized nations did not justify it. He defied any one to put his finger on any passage in any esteemed writer on National Law, or on any page of history, in which such a transaction was reconciled to the principles of lawful warfare. So far from a belligerent being entitled to destroy private dwellings because of their being or having been occupied by its enemy, Mr. M. maintained the reverse to be the law. The most fertile and populous countries of Europe, he remarked, had been most frequently the theatres of war—Flanders and Lombardy, for example, the cock pits of Europe, in which France and Germany had so often contended for empire. Of the ravages which would have been made of these beautiful countries, if the principle now suggested had been acted upon, he drew a vivid outline, concluding by saying that, by the conduct of her commanders on the shores and frontiers of this country during the late war, the arms of Great Britain had been stained with a dis-

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grace which it would take a century to wipe off. There existed, he argued, no such right on the part of a belligerent, as the right to destroy private houses, or individual property, from which an enemy has been driven. If such a right had been admitted and acted upon in Europe, what would have become of the splendid buildings dedicated to military purposes, or of the private buildings occasionally employed for them? He expressed his surprise to find gentlemen in this discussion transferring themselves to the Niagara frontier, as if their general principles applied there only, instead of sweeping the whole continent. He illustrated the principle which had been laid down on this subject, by applying it to the City of New York, if, in any future war, an enemy should obtain possession of it; and demanded if the right to ravage that city with fire could be derived from the fact that troops called in for its defence were quartered in private buildings. Upon the whole, he concluded that it would be neither just nor wise for this Government to recognize any such principle as the right of an enemy to destroy private property because it may have been employed, for a time, either for military depots, or for barracks.

With regard to the distinction which had been drawn as to the right of the enemy to destroy private property, that the war on the Niagara frontier, was, on our part, an offensive war, Mr. M. remarked, that, whether a war was offensive or defensive, must be determined by its *origin*, and not by any particular incident of the war.

The gentleman from New York, (Mr. STORRS,) had answered the argument of his colleague, (Mr. TRACY,) by contending that the war on the Niagara frontier was calculated to call the attention of the enemy from the frontier of the state of Ohio, which, he was in the act of invading. Whether a particular expedition was offensive or defensive, he repeated, must depend entirely upon the plan of the campaign. An invasion of the territory of the enemy might be necessary to call his attention from our own seaboard.

A member from New York, (Mr. CAMBRELENG,) had told the committee, indeed, that this country would never again be invaded. He was very glad to hear it, he said; and yet nations as strong as this had been invaded. And, in reference to the possibility of such an event, as well as upon general principles, he objected to the establishment of a new law of nations, which would subject the public treasury to all the losses of property it might occasion.

Mr. M. concluded his observations, by some remarks on the general subject of claims of this description.—He said he should probably vote against the bill, in any and every shape in which it should be presented to the House; being of opinion, that those of the claimants who were entitled to relief ought to present themselves by petition to the House. In particular cases, sufficient reasons might be assigned for the allowance of particular claims: but he had always been opposed to the passage of any general bill on this subject. He was unwilling to establish a principle now, by the passage of this bill, which, on some future occasion, he would be under the necessity of abandoning.

Mr. FORSYTH said he had not any intention to call in question, at this late day, the conduct of the Commissioner of Claims. At a proper season he had done so, and, he believed, with some effect. He had not spoken of misconduct on the part of the Commissioner, but of an extraordinary construction of the law by him; and, so far from its being previously sanctioned by the President, the language of his message on the subject to Congress, was, that the law had received "such a construction by the Commissioner," that he had thought proper to interfere and suspend the further execution of the law. Mr. F. quoted that part of the Message of the President to Congress in December, 1816, which relates to this subject, and said that any gentleman who was

curious to ascertain what were the views of Congress on this subject, would find them clearly indicated by the various amendments, &c. which were proposed to the bill, which grew out of this Message of the President.

Mr. DWIGHT, of Mass. said he did not rise to enter into the discussion of the general question upon the merits of the bill, as it originally stood; to that bill, unmodified, he was himself opposed. But limited, as it now was, by the amendment of his honorable friend from New York, (Mr. STORRS,) to the destruction of buildings or other property in the actual occupation of our own Government, at the time of the destruction, he gave his most hearty co-operation. He rose merely to point out an error of the honorable gentleman from Virginia, (Mr. MASON,) who had just taken his seat, and upon which the argument of the honorable gentleman against the present bill seemed entirely to be founded. That is, that the laws of 1816 and 1817, in behalf of persons who had property lost, captured, or destroyed, by the enemy during the last war, were not founded in principle, and went further than the Government were bound to go in relief of individual distress. To shew that the error was in the laws of 1816 and 1817, and not in the administration of them, the honorable gentleman from Virginia had attempted to shew that the Commissioner, acting under the authority of those laws, had invariably been guided by the opinion of the Government, as to the extent of the allowances which he was to make.—To support this position, the honorable gentleman had read a part of the correspondence between the Commissioner and the Secretary of the Treasury, as to the extent of his ability to make allowances. And thence, the gentleman had induced the belief that, because the Commissioner had consulted the Government, he had, in all instances, been governed by the result of that consultation. So far indeed was this from being true, he was himself prepared to shew, from the documents which the honorable gentleman had just read, that the Secretary of the Treasury had, in his answer to the Commissioner, confined relief to the destruction of buildings actually in the occupation of the Government for military purposes. The committee were not ignorant, that, so far from this salutary principle being the governing one, the Commissioner had allowed some thousands of dollars in one instance to be paid for a building in the City of Washington, in regard to which the proof was by a British deserter, that it was destroyed by the enemy because a single musket was found in one of the apartments. He might add, (he said,) other instances of a wide departure from what was now considered the spirit of the laws of 1816 and 1817. They were, he presumed fresh in the recollection of gentlemen who were, unlike himself at that time, conversant with those proceedings.—He would ask the honorable gentleman if the policy of the laws of 1816 and 1817 were so generally questionable, why they had not been repealed? It was true, he admitted, that the President had long since suspended the powers of the Commissioner. But that had not repealed the law. The President, indeed, had no more power over that repeal than the humblest individual of the nation. He appealed to the committee for the correctness of the assertion, that the universal public feeling at that time, was, that the decisions of the commissioner (though he had no doubt they were honest,) would involve the government in payments which it was not in contemplation of the laws of 1816 and 1817 to make them responsible for. The fact that the laws now remained unqualified and unrepealed upon the statute book, was unequivocal evidence of the correctness of their policy; while the suspension of the powers of the commissioner at that early period, by the President, went as clearly to show that he had not, in the opinion of the government, been guided by a sufficiently cautious policy in the administration of those laws. He would submit, then, he said, to the committee, the ques-

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tion, whether the honorable gentleman was authorized to found an argument against the present bill, upon a supposed resemblance to the laws of 1816 and 1817. The coincidence, if any, was in favor of the present bill, and not against it. True it was, the law of 1816 contained a qualification not embraced in the present bill, and that was, that it should appear "that the occupation by our government was the cause of the destruction of the building for which payment was demanded." He would ask gentlemen if it were worthy of our government, who had violently seized upon the house of an individual, and turned his family out to cover their houseless troops, to demand of him, when he asked remuneration for a burning by the enemy, when so occupied, to prove that such occupancy was the cause of its destruction? He thought not. Every principle which binds a government to its citizens, or one citizen to another, was at war with such a requisition. He would say, in the language of the gentleman from Vermont, the other day, (Mr. BRADLEY,) who then was, but now he presumed would not be, against the bill before the committee—"The Government have taken the property of an individual, and while in their hands it was destroyed; they are bound to restore it or make compensation." Equally clear, he contended was the principle laid down by the honorable gentleman from Virginia, (Mr. BARRON,) who had the other day gone so fully and ably into the discussion of the merits of the original question. This was a case, in the language of that gentleman, of destruction in pursuance of the usages of civilized warfare; and, if so, there can be no doubt the government are bound to compensate to the full extent of their ability. The sum asked for was but small, under the amendment, and he hoped it would prevail. He would, before he sat down, ask the committee to look at the situation of the petitioners, who, upon every principle on which we had founded our opinion upon private claims, were entitled to relief. Their misfortune hitherto seems to have been that their claims were involved with a mass of less questionable cases, and, year after year, to have been refused relief, because a bill intended for them embraced others not so clearly within the settled principle which had governed this House. In this case, the maxim of charity was equally applicable as a maxim of justice. "*Bis dat, qui cito dat*,"—he gives twice who gives quickly. Let this be applied to them, and your deserving citizens who have given up their houses for barracks, shall not be compelled to add to the ten years in which they have been in vain asking for remuneration. He would not occupy further time, as he had only risen in reply to the observations which had just fallen from the gentleman from Virginia.

Mr. BUCHANAN, of Pennsylvania, said, he rose to make a few observations on the bill before the committee, which he would not have done, had his views of the subject been exhibited by any other gentleman. He said, he would state, as a clear proposition, which had not been much disputed in the course of the discussion, that this government was bound, as a matter of right, to indemnify individuals for the destruction of their property by the enemy, provided such destruction were in pursuance of the rules of civilized warfare. If that were not the case, then we were not compelled by any principles of public law to make such an indemnity.—Every motive of policy would forbid it.

Then, said Mr. B. the question is, was the devastation of the whole Niagara frontier and the burning of Buffalo, acts justified by the laws of war? Can this be a subject of serious doubt at the present day? If we pass this bill, we proclaim that our denunciations of the conduct of the British army on that frontier, which has met the reprobation of the people of the United States, and, he trusted, of the whole civilized world, were unjust and unfounded. The Congress of the United States will declare, that the acts of that army were measures of

lawful war, and, as such, they were bound to grant indemnity to the sufferers. This is the principle upon which the bill has been rested by its friends, and the only principle upon which it can rest.

Let us then, said Mr. B. inquire into the justice of this proposition. Had the enemy a right to burn and destroy the whole Niagara frontier, because most of the private houses were occupied as barracks and places of military deposite? On this subject he concurred generally with the views of his friend from Virginia, (Mr. MERCER.) If this were established as a correct principle of national law, the consequence would be dreadful, and in many cases, the general devastation of the private property of unoffending individuals must inevitably ensue. War would no longer be a civil game between independent sovereigns; but each individual of the hostile nations would be liable to ruin by the destruction of his property. I will illustrate my views, said Mr. B. by an example. Let an enemy land upon our shores and drive our army beyond the line of our fortifications, what would then be the consequence? Private houses must of necessity be used as places of military deposite and as a shelter for the soldiers. Once, then, establish the principle embraced by this bill, and you justify an enemy in destroying and laying waste the whole country over which he advances. Nay, you do more; you offer him the strongest temptation to commit such outrages. Such, said Mr. B. has never been the practice of civilized nations; and he trusted this government would never sanction the propriety of such outrageous acts on the part of an enemy.

Mr. B. said there was another view which this subject presents, which adds the guilt of perfidy to that of the violation of the laws of war. Whilst the village of Buffalo still presented a hostile front to the enemy, a capitulation was entered into by Col. Chapin of our army, with Gen. Rial, who commanded the British forces. By that instrument, it was solemnly agreed "that private property and private persons should not be molested or injured." Upon the faith of this capitulation the British forces entered the town. The testimony proves, that, before its date, they were well acquainted with the fact, that a large body of the United States' troops had been quartered there, and that many of the houses were places of military deposite. With a full knowledge of those circumstances, they entered into the capitulation: What was then their subsequent conduct? Instead of separating the military stores from the houses in which they were deposited; instead of destroying public and saving private property, they involved the whole village in one common conflagration. At the most inclement season of the year, in a northern climate, regardless of their faith, they set fire to the town, and drove its inhabitants to seek shelter and bread from the compassion of strangers. And this under pretence of what they well knew before the capitulation, that there were military stores deposited in many of the private houses. And yet this destruction is attempted to be justified by the laws of war established among civilized nations.

Again, said Mr. B. pass this bill, and no member of the committee can form any just estimate of the number and amount of the claims to which it will give birth. The inhabitants of the Niagara frontier are neither better nor worse than their fellow countrymen. This bill is chiefly intended for their benefit. It is to embrace a tract of country of considerable extent, within which the whole mass of people feel a common interest in obtaining from the Government as much as possible. Self love, and the prejudices which necessarily result from it, will induce them to bring every case in their power within the language of the law, and to place the highest value possible upon the property which was destroyed. This bill is without limit, and without bound; and what will be the extent of the appropriation necessary to carry it into effect, the committee cannot even conjecture.



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Sir, said Mr. B. I may be asked if I am unwilling to afford these sufferers any relief? I answer, without hesitation, I am not. They have claims upon our generosity, not upon our justice. I would mitigate their calamities, not indemnify them for their losses. They have suffered more than the common misfortunes of war; they are therefore entitled to the compassion of a paternal government. I would grant them such relief as, whilst it would not be too burdensome on the Treasury, nor produce those ruinous consequences to the nation which must result from establishing as a principle that we will pay the value of private property destroyed by the enemy in violation of the laws of war, might yet mitigate their sufferings. I believe I know several gentlemen of the committee to be of the same opinion. I would give them 150,000 or 200,000 dollars, to be distributed pro rata, in full satisfaction of all demands. If, said Mr. B., you adopt a principle of this nature, you will at once know the extent of your donation, and you will make it the interest of the sufferers themselves to watch over the claims of each other, and see that none are established except those which are supported by principles of justice.

Mr. MALLARY, of Vermont, said, that, in giving a vote upon this bill, he should do so with reference equally to the policy of the Government and the claims of individuals. It was well known, he said, that at the time of the passage of the law of 1816, and the amendatory law of 1817, there had been a serious investigation of the merits of those laws. Ten years have elapsed since the passage of those laws, and Mr. M. asked if it was not almost impossible now to establish a rule, different from that which was established when the subject was fresh in the minds of the members. As a matter of expediency, he thought there would be very great difficulty in ascertaining any other rule by which those claims could be disposed of. The inquiry then was, What has the Government done, and in what condition are the claims of these individuals? Some gentlemen had expressed a wish that these claims should be decided upon the principle of the law of 1816. Mr. M. said, he was perfectly willing, for his part, that those claims should be presented, and determined, upon the rule of the act of 1816, that payment should be made for private houses or other buildings occupied by the United States, and destroyed whilst so occupied. This, he said, was a safe rule, founded on the principles of the Government, recognized by the constitution, that when the Government takes the property of an individual for private purposes, it shall, in such case, make compensation for it if lost or destroyed. But, he said, as for compensating the losses of a whole frontier, destroyed by a wanton act of violence by the enemy, under pretence that our armies had marched in that direction, it was opening so wide a drain upon the Treasury as no Government could safely sustain. Were we to sanction such a principle at this time of day, said Mr. M. we should abandon our duty. I would vote any amount of money, said he, which might be necessary to carry into effect the principle of the acts of 1816 and 1817. If there be any individuals on the Niagara frontier whose cases came within the principle of those acts, Mr. M. said, they should cheerfully have his vote, and he presumed they would have the decided and unanimous vote of the House in their favor. The carrying into execution, in favor of claimants, of the principle of the law of 1816, was all that could be expected of Congress, &c.

As to the idea, which had been suggested by one gentleman, of opening the Treasury, and scattering among the people on the Niagara frontier a portion of the public funds to enable them to retrieve their losses, Mr. M. apprehended a great many difficulties in the way of such a provision, as to how this fund was to be distributed among the respective sufferers on the Niagara, at Plattsburg, and on the Potomac. The safest course, he

thought, would be to adhere to the rule already laid down, as by the act of 1816, &c.

Mr. STORRS said, that it appeared to him to be high time that the House should be brought back to the question actually before it, from which the debate had considerably wandered. This was no question as to paying for all the losses sustained by the incursion of the enemy on the Niagara frontier. There was not, he said, one twentieth part of the destruction upon that frontier proposed to be provided for by this bill, which referred only to the cases of certain persons, whose buildings were actually in occupation as barracks, or military store-houses, &c.

With respect to the suggestion that Buffalo was burnt in contravention of the capitulation, Mr. S. said, that very capitulation showed the sense in which the British understood the occupation of that village. By the capitulation, private property was to be respected. But, where this private property was occupied by the public, it was burnt, because it was not private property, in the sense of the capitulation, but public. The very citation of that capitulation, showed what were the views which the enemy entertained of the character of the private property converted to public use at Buffalo.

This bill, Mr. S. said, as far as he understood it, would cover losses to the amount of an hundred and fifty, or two hundred thousand dollars, on that frontier. It would also, however, cover losses in other portions of the Union. It was not a bill for the Niagara frontier, or for the state of New York; it was to cover losses in other parts of the United States; and yet, said he, we are told it is to scatter a million of dollars from the Treasury among the inhabitants of the Niagara frontier. Let us have done with these arguments, said Mr. S. and come to the merits of the bill, which apply equally to all parts of the Union. If the object of the bill be just, honorable, and fair, the amount of the money it will require ought to be no object.

We are brought back, said he, to this question: whether property of individuals, so occupied as to give it a military character, may be lawfully destroyed. What, sir! is it at this day to be maintained, that a military cantonment, in the vicinity of a town, may not be destroyed in lawful warfare? That dockyards, marine barracks, arsenals, &c. are not subject to destruction by an enemy? It appears to me, on the contrary, that every thing which gives a military character to property, subjects it to destruction. I ask, said Mr. S. on what principle was the Parliament House of Little York destroyed by your own troops when you invaded Canada? The barracks at Fort George were destroyed, on its capture, and wherever we invaded Canada, the public property was not spared. And, said he, are we prepared, therefore, to justify the burning of Buffalo? To put into the mouth of our late adversary that argument against us? No, said he: all public property, barracks, arsenals, and military stores, are lawfully subject to destruction—as much so as cannon foundries, which no one will deny the right of an enemy to destroy. An enemy has as much right to destroy the barracks as to destroy the public ships of the country. There must be some sense in which the gentleman from Virginia had spoken of the rights of a belligerent on this subject, which he, (Mr. S.) had failed to comprehend.

Mr. S. supposed the case of a stone house on a frontier, occupied as a military station. That house, he said, was as lawful a subject for destruction as a fort in any other form. So with regard to the village of Buffalo: it was, during the war, one great cantonment, and he could call upon more than one gentleman in this House, whose duty it had been to take possession of the buildings for the military service, or who had knowledge of its being done, &c.

As to charity and humanity to the People of the Niagara frontier, there was no such principle embraced in

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*Niagara Sufferers.—Imprisonment for debt.*

[H. of R. &amp; Sen.]

this bill. It was a general bill for the benefit of sufferers in every part of the Union, and involved a question not of generosity, but of absolute right.

Mr. COOK, of Illinois, moved to amend the amendment of Mr. STORRS, by adding the words "and was abandoned by the United States in consequence of the enemy."

Mr. TAYLOR, of New York, said he should support the original bill, not because it embraced any new principle, but was to carry into effect one already established, and he should oppose the amendment proposed by the gentleman from Illinois, because to adopt them would be to introduce a principle upon which Congress has not yet legislated. It would be difficult, he said, unless the principle of his colleague was the true one, to find any principle on which the Niagara claims should be paid. The construction which had been given, by some of the committees of this House, to the 9th section of the act of 1816, was, that the proviso to it should be so construed as to defeat the object of that section—an interpretation contrary to every rule of construction. What case can occur said he, in which it may not be said, that destruction of property by an enemy was wanton, and could have occurred whether the property had been occupied for the use of the Government or not? The allowance of this objection would destroy, at once, the whole effect of the 9th section of the act of 1816, and it never could have entered into the minds of the framers of that act, that it could be so construed. I was here, said Mr. T. at the passage of the act of 1816, and the object of it, if I understood any thing in regard to it, was to pay for all losses of private property occupied for military purposes, and destroyed according to the rules of civilized warfare. Property so occupied, had become public, and the loss of it ought to fall on the public, to whose use it had been converted.

The report of the Committee of Claims, in 1818, proved, conclusively, that the committee themselves believed there were many cases of property destroyed on the Niagara frontier, which, upon the principles of the acts of 1816 and 1817, Congress were bound to provide for. Mr. T. quoted the report to show this admission, and to show, also, the reasoning of the committee that, because some of the claims were not of this description, they would therefore pay for none of them. This report was concluded by a recommendation of the allowance of fifty per cent. of the amount of loss proved upon buildings, and thirty per cent. on the amount of other property destroyed, without discrimination—and why? For this reason: that the loss by wanton destruction of property was as severe as the other, and grew out of the destruction of property that was occupied by the military, &c. If it were true that these were cases of destruction of buildings, because of their military occupation, was it for Congress to say to the claimants, in those cases: we will not pay you, because others have had their property destroyed under the influence of other considerations? The principle of the amendment, now under consideration, was, that, as it is the duty of the Government to protect the property of individuals, it must, in all cases, pay or losses of it. Now, Mr. T. said, he admitted it to be the duty of a Government to grant protection to its citizens, but it was a duty qualified by the extent of the ability of the Government, and of course not exceeding it. Was it a fact that private property, occupied during the late war by the Government, had been destroyed to such an extent, that the Treasury was unable to pay for it? When such a case exists, let it be presented and considered of: but such was not the case now. The total amount of private property lost in that way, throughout the United States, could scarcely, if at all, exceed a million of dollars. Is it proper, said he, to withhold payment in cases where your own act has been the occasion of the loss?

I rose, said Mr. T. merely to say, that I am in favor of

an extension of the principle of the act of 1816, and of giving to the 9th section the only construction which, upon legal principles, it appears to me possible to give to it. We are led astray, in debating this subject, by going into a consideration of *motives* on the part of the enemy. We lose sight of the *facts* of the occupation of the property by the enemy, and we go to the motive of the destruction on the part of the enemy. In doing so, you ask for what you cannot obtain. There may have been a variety of motives, and in that case you must go into a metaphysical inquiry, to ascertain which of them was the predominating motive. This, Mr. T. said, was the cause of the error into which some gentlemen had fallen, which they would have avoided by confining their attention to facts, &c.

On motion of Mr. ROSS, of Ohio, the committee then rose, reported progress, and obtained leave to sit again.

#### IN SENATE—TUESDAY, JANUARY 4, 1825.

The Senate having resumed the consideration of the bill "to abolish imprisonment for debt,"

The first part of the first section of the bill being as follows:—"That no bail or security for the appearance of any defendant or defendants shall hereafter be required upon the service of the original, or mesne process, issuing out of the Courts of the United States, in any action or suit whatever, founded on contract, express or implied, which shall be made or entered into after the 4th of July next, unless the plaintiff, or some other person, shall make oath or affirmation, before the clerk or officer attesting the said process, who is hereby empowered to administer the same, or before some other person authorized by law to administer oaths, that the defendant or defendants named in the process, are justly indebted to the plaintiff or plaintiffs in the sum claimed by him or them, and shall further make oath or affirmation, that he or they have reason to believe that the said defendant or defendants intend to remove from the state or territory, or intend to leave the United States."

Mr. TAZEWELL moved, for reasons which he assigned in some detail, to strike out the clause printed above in *italics*.

Mr. JOHNSON, of Kentucky, deeming this proposition to effect, in a considerable degree, the principle of the bill, opposed it with much earnestness. Mr. VAN BUREN also opposed the amendment at some length.

Mr. TAZEWELL and Mr. MILLS severally supported the amendment at considerable length, as expedient and necessary, without any intention to impair the principle of the bill, or limit its scope more than the rights of creditors, as well as debtors, required.

Mr. JOHNSTON, of Louisiana, delivered at large his sentiments in support of the bill and against the amendment.

The question being taken on the amendment proposed by Mr. TAZEWELL, it was decided as follows, by yeas and nays.

YEAS.—Messrs. Barton, Bell, Brown, Chandler, Clayton, Cobb, D'Wolf, Dickerson, Edwards, Elliott, Gailard, Hayne, King, of N. Y. Lloyd, of Md. McIlvaine, Mills, Noble, Palmer, Parrott, Ruggles, Seymour, and Tazewell—22.

NAYS.—Messrs. Benton, Bouligny, Branch, Eaton, Findlay, Holmes, of Me. Holmes, of Miss. Jackson, Johnson, of Ken. Johnston, of Lou. Kelly, King, of Ala. Lanman, Lloyd, of Mass. Lowrie, McLean, Macon, Smith, Talbot, Thomas, Van Buren, and Williams.—22.

The Senate being equally divided on the question, the motion to amend was of course lost.

The question was then taken on ordering the bill to be engrossed and read a third time, and was agreed to, without a division.

H. of R.]

Naval School—Amendments to the Constitution.

[JAN. 4, 1825.]

## HOUSE OF REPRESENTATIVES—SAME DAY.

The resolution of Mr. LIVINGSTON, proposing a plan for the education of Officers of the Navy, being under consideration, some conversation took place between the mover and Mr. FULLER, who offered an amendment to strike out the whole of the resolution after the word *Resolved*, and to insert a provision instructing the Committee on Naval Affairs to inquire into the propriety of establishing a school for the instruction of Midshipmen, and other warrant officers of the Navy, when not at sea.

Mr. LIVINGSTON objected to the substitute, as not going so far as the system he wished to see adopted.—The substitute restricted the instruction to midshipmen, but he wished a preparatory school, which should take up young men before they entered the service. Mr. L. said, it was owing to the want of an establishment of this kind, that the Navy was going down. Yes, sir, said he, the Navy, I repeat it, is going down in point of the attainments of those who are entering it. There is, in this respect, a marked distinction between those who are entering the two branches of our military service. Those who enter the Army are decidedly superior in *previous attainments*. The want of a good system of elementary instruction for the naval service, begins to be felt already. It may be felt when it is too late. The future commanders of our maritime force should be prepared now, while we have opportunity and time for it. But, without a school, this can never be done. The actual service may make seamen, but it alone will never make officers.

Mr. FULLER gave the gentleman from Louisiana much credit for his enlarged and statesmanlike views on this subject. He commended his desire to place the education of our naval commanders on a broad and permanent basis; and he knew of no objection, at present, which would prevent his voting for the gentleman's resolution. But he must apprise the gentleman, that, before he was a member of Congress, this same subject had been before them; and the Committee on Naval Affairs had made great efforts for its accomplishment. They had confined even their hopes to the education of warrant officers in service, and had used much exertion to reconcile the minds of gentlemen who were opposed to the measure, but had not been able to do it; and he would leave it to the candor of the gentleman from Louisiana to say, if those who refused to grant even the half of the plan he proposed, were likely to accede to the whole of it. Mr. F. disclaimed being swayed by any feelings of pride, as a member of the Naval Committee, which might be supposed to render him jealous of a similar attempt by the gentleman from Louisiana; his only objection was, the difficulty of finding means. He would, however, withdraw his amendment.

Mr. MERCER then observed, that, as he heard it whispered by some gentlemen who sat near him, that, under the resolution of the gentleman from Louisiana, there was concealed a system of burdensome expense, of great extent, he thought it his duty to state that he was warranted by the gentleman who presided over the Navy Department, in saying that the object might be accomplished at a very small expense. It had been even proposed to place such an institution, without any farther grant from Congress, in the barracks erecting at the fortification at the mouth of the Chesapeake. As the buildings were there already provided, all that would have to be granted, would be an appropriation for the salaries of two or three professors, which was a trifling expense in comparison with the good to be attained. Midshipmen are now taken on board our vessels on trial only—they go one voyage to sea—and if, from that experiment, they appear to discover talents for public usefulness, they receive a warrant, and regularly enter the service—just as young men are received as cadets at

West Point. The House was aware that the Government could assemble the Midshipmen at any point it might judge proper, and thus afford to the Navy some of those benefits which the Army derives from the Academy at West Point.

Mr. REYNOLDS, of Tennessee, rose, not to oppose the measure proposed by the gentleman from Louisiana, but only to assure that gentleman that this was not the plan which would keep the Navy from "going down." The difficulty lay at a previous point—there was almost no such thing as apprentices in our merchant service. Merchants found the applications so numerous, to take out young lads on trial, and the measure was in general attended with so much trouble and so little profit, that they generally refused to do it. Hence there was no such thing as a proper nursery for our young seamen—and, unless some law was passed compelling ship owners to take a certain quota of apprentices, in proportion to the tonnage they owned, we should soon have no seamen of our own raising. The proper measure was to go at once to the foundation, and, by some such law as he had suggested, provide an effectual nursery for both services.

The question was then put on Mr. Livingston's resolution, and lost—58 members only rising in its favor.

Mr. SAUNDERS, of N. C., offered, with a brief explanation, the following proposition:

*Resolved, &c.* That the following amendment to the Constitution of the United States be proposed to the Legislatures of the several states; which, when ratified by three-fourths thereof, shall be a part of the said Constitution.

"That, for the purpose of choosing a President and Vice President of the United States, each state shall be divided by the Legislature thereof into a number of districts, equal to the whole number of Senators and Representatives to which such state may be entitled in the Congress of the United States. Each district shall be composed, as nearly as may be, of contiguous territory, and shall contain a number of persons entitled to vote, as nearly equal as circumstances will permit.

"And on such day as Congress shall determine, which day shall be the same throughout the United States, the citizens of each state, who may be qualified to vote for a Representative in Congress, shall meet at such places, within their respective districts, as the Legislature of each state shall appoint, and in such manner as such Legislature shall direct, shall vote for one person as Elector of President and Vice President; but no Senator or Representative, or person holding an office of trust or profit under the United States, shall be appointed an elector.

"The electors appointed shall meet at such place in their respective states as the Legislature thereof may direct, and on such day as may be appointed by Congress, which day shall be the same throughout the United States; and in case of the non-attendance of any one of the electors, from death, sickness, inability, or other cause, the vacancy of such elector shall be filled in such manner as the Legislatures of the respective states may direct. The whole number of electors shall then vote for President and Vice President, one of whom, at least, shall not be an inhabitant of the same state with themselves; they shall name in their ballots the persons voted for as President, and in distinct ballots the person voted for as Vice President; and they shall make distinct lists of all persons voted for as President, and of all persons voted for as Vice President, and of the number of votes for each, which list they shall sign and certify, and transmit sealed to the government of the United States, directed to the President of the Senate; the President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates, and the votes shall then be counted: the person having the greatest number of votes for President, shall be President, if such number be one-third of the whole number

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of Electors appointed; and if two persons have a greater number than one-third, then such person as may have the greatest number; and if no person have one-third of the whole number of electors appointed, then from the persons having the highest number, not exceeding two, on the list of those voted for as President, the House of Representatives shall choose, by ballot, and under such rules as they may agree on, the President. But, in choosing the President, the votes shall be taken by States, the Representation of each state having one vote: a quorum for this purpose shall consist of a member or members from two-thirds of the states, and a majority of all the states shall be necessary to a choice. And if the House of Representatives shall not choose a President, whenever the right of choice shall devolve upon them, before the fourth day of March next following, then the Vice President shall act as President, as in the case of the death or other constitutional disability of the President.

"The person having the greatest number of votes as Vice President, shall be the Vice President, if such number be one-third of the whole number of Electors appointed; and if two persons have a greater number than one-third, then such person as may have the highest number; and if no person has one-third of the whole number of Electors appointed, then, from the two highest numbers on the list, the Senate shall choose the Vice President: a quorum for the purpose shall consist of two-thirds of the whole number of Senators, and a majority of the whole number shall be necessary to a choice.

"A person constitutionally ineligible to the office of President, shall be eligible to that of Vice President of the United States."

The resolution was twice read, and referred to the committee of the whole on the state of the Union, to whom other resolutions on the same subject have been referred.

#### NIAGARA SUFFERERS.

The House having again resolved itself into a committee of the whole on the bill "for the relief of certain persons who suffered by destruction of their property by the enemy, during the late war"—

Mr. ROSS then rose, and observed that it was not his intention to enter into a discussion of the abstract principle of the bill before the committee. If he understood the principle, as well of the bill as of the amendment now proposed, it did not differ materially from that of the bill of 1816, either in form or substance. He did not know that it would be a very profitable inquiry to go into the intentions of Congress in passing that act; but he believed, if such an investigation were made, it would appear that the intent of Congress was to furnish a rule for ascertaining the amount of damage that had been suffered by persons, whose private property had been taken for the use of the United States, and in such circumstances destroyed by the enemy, according to the laws of civilized warfare. The ninth section of that act, so often referred to in this debate, did not introduce into our legislation any new principle, *i. e.* any principle foreign to the acknowledged laws of nations. If he had rightly understood the gentleman from Virginia, (Mr. BARBOUR,) who had favored the House with a learned and lucid argument on the point, he held that when the Government took any private building for a military use, and it was then destroyed by the enemy, with a view to benefit himself and to injure us, it was lawfully destroyed, according to the laws of war among civilized nations. Now, the act of 1816 said none other than this. It went upon this principle as taken for granted, and only directed how the debt, acknowledged to be due from Government to the sufferers, should be ascertained as to its amount. Mr. R. said he thought that, in the previous part of the debate, gentlemen had departed far from the true subject before the

committee, when they went into an inquiry, as though the Congress, in passing that act, had not gone according to the received law of nations, and as though some new rule had been then established. It was not so; and, he asked, if the principle of the act of 1816 was a correct one, how Congress could now withhold an extension of that same principle to all the cases justly included within its range? If the Government, when it came out of the late war, flushed with glorious victory, their hearts exulting, and warm with lively gratitude towards those who had raised their country's name by land and on the ocean, could, without regard to nice lines of demarcation, recognize a great principle owned by all civilized nations, and, in accordance with it, had passed the act of 1816, he thought it did not become Congress, at this day, because they find that, in carrying that law into effect, they may chance to have a large sum of money to pay, to begin to quarrel with the law, or deny the principle on which it is founded. He saw no difference between the principle of the present bill and that of the act of 1816, except the proviso in the latter, that it shall be proved that the occupation of the buildings by the United States was the cause of their destruction by the enemy. The present bill assumed this from the two facts of the occupation and the destruction. It holds that, being occupied for military purposes, the buildings became the lawful subjects of military destruction. The omission of that proviso was no objection against the present bill.

But it had been insisted by some gentlemen, that, in order to claim indemnification, the sufferers must show that the occupation continued up to the time when their buildings were destroyed. Agreed. But what is occupation? There is surely a legal constructive occupation by the Government, so long as it is out of the power of the owner to occupy the premises himself. This was the doctrine, as applied to the concerns of individuals, and the same rule equally applied to Government. Although there might not, in fact, have been any of the powder or stores, or any of the soldiers actually in the building when it was destroyed, yet, if it had not been returned by the Government to its owner, it was still in the occupation of the Government. As to the amendment of the gentleman from Illinois, (Mr. COOK,) he did not see that any thing more would be gained by it than was secured by that of the gentleman from New York, (Mr. STORRS.) The one says the premises shall be proved to have been abandoned in consequence of the approach of the enemy. The other says it must have been in possession of the Government at, or a short time before, the period of its destruction. If either of these states of things were proved, it would amount to a constructive possession by Government at the time of the destruction—a case provided for by the bill.

Does this principle, asked Mr. ROSS, vary from the act of 1816? I apprehend not. Here Mr. R. referred to the documents accompanying the report of the committee, and in particular to a letter of Mr. Secretary CHAWFORD to the Commissioner under that act, in which he lays it down as a rule, that the occupation of houses and buildings destroyed must continue up to the time of destruction. He argued to show that this must refer to private buildings, and that the occupation need not be literal. Did it enter into the mind of any reasonable being so to interpret the law as to require, in order to establish a claim for indemnity, that the soldiers, who had been quartered in the houses, must have remained and been burnt under the ruins? He quoted the Secretary's letter to shew that occupation, even for a single night, if in presence of an enemy, amounted to the occupation contemplated by the law. He could not, for his own part, conceive how ingenuity itself could put a different meaning on the law of 1816 than that which he had mentioned. And, if he was right, he did not see why Congress should not, at this day, afford the same relief as

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they did in 1816 and 1817. That law had been in part acted on by officers of the Government, and a part of the claims had been paid under it. Grant that experience had proven that the act had been poorly worded, and badly executed—was that a reason why Congress should now, from mere sordid and pecuniary motives, withhold payment from the residue of the claimants equally included within its provisions? Gentlemen in their private capacity would not act in this manner; and shall we, asked Mr. Ross, because this Hall contains upward of two hundred men, shelter ourselves from responsibility, and do what we should be ashamed of, each saying by way of apology, "It is not me, it is the Congress of the United States that has done it?" No: let us rather act with boldness, under a due sense of what is our imperative duty.

But the bill has been objected to as though it were for the benefit of the Niagara frontier alone. Sir, said Mr. R. when I heard this objection, I was astonished. I had supposed, from hearing and reading the bill, that it referred to all, without distinction, whose property had suffered in the same way. If it happened that there were more sufferers on this particular frontier than on any other, be it so: it is a thing Congress could not help: it is their misfortune, said Mr. R.—let it not be our gain. As to the extent of the occupation, it would be in the recollection of all who were conversant with the history of the late war, that the entire frontier, so early as 1812, was little else than a great cantonment. Both the regular army and militia made it their place of rendezvous. Buffalo, especially, was the rallying point for our whole force. Now, it was notorious that the Government had provided no camp equipage. There were the troops exposed and sick, without quarters, and almost without covering; and, close by, was a town affording comfortable shelter. Would any man hesitate as to what was the duty of the American officers? Were they to leave the troops under their command to perish in the open air, many of them sick, many wounded, and none properly clothed? Surely not. The houses were taken possession of, and it was right they should be. They were our only camp, our only barracks, our only magazines; and, while in this constructive occupation by the Government of the United States, they were destroyed by the enemy.

But, we are asked, how happens it that the destruction was indiscriminate and universal? that no selection was made—but all the buildings on the frontier laid waste? Why, sir, it can hardly be expected that the enemy, when successfully invading a hostile country, should go into every house and inquire, Is this house occupied, or has it at any time been occupied, by the troops or munitions of the Government? At such a moment it is held sufficient that the house is apparently in public use—it is destroyed without further ceremony. But because some have been destroyed wrongfully, is that a good reason why they should pay for none? Suppose these houses had been built by the Government, and occasionally occupied by troops or by public stores, would there be any question or doubt that the Government would be bound to suffer the loss? It would then be held that these buildings belonged to Government. But what difference did it make in the case who built the houses? Is the loss not to be borne by the Government because the Government did not *build* the house that was destroyed? Suppose the United States had *bought* the houses, (no matter what their form or what their size—whether of stone or of wood, in the form of a castle, or of a dwelling house, or of a barn,) there would then be no question who was to bear the loss. But what difference does it make if the Government *takes* the houses, and uses them as it would if it had bought or had built them? They were used for a military purpose, and they were destroyed for a military end. They were burnt, that thereby we might be weakened and the enemy might be proportionably strengthened. The fact of the

destruction was enough—the presumption followed of course that this was the cause of the destruction.

Gentlemen, however, maintained that the destruction was accomplished on a principle of retaliation. The evidence, however, all went to show that, not only was it the understanding of the American army, but of the British officers themselves, that the invasion and destruction of the frontier was on account of its occupation by the American forces. Here Mr. R. referred to the letter of Col. Chapin, the capitulation at Buffalo, &c. and argued from both, that it was the shelter given to the American army that occasioned the destruction of the houses. The gentleman from Pennsylvania, (Mr. BUCHANAN,) had referred, yesterday, to the same event, and had contended that the burning of Buffalo was an outrage on the principles and usage of civilized warfare—that it was a wanton destruction of private property. But, said Mr. R., it appeared, from the conversation of Col. Chapin with the British Gen. Riall, that the cause assigned by him at the time was, that, when he entered the town, he found the houses occupied as barracks and magazines. Other testimony went to establish the same fact. Indeed it was perfectly notorious, that the Government had no other barracks or magazines for their army. Mr. R. referred also to the language of Gen. Prevost, at Quebec, as reported by Capt. Swazy, who had asked leave to lay waste the frontier, and had been told, in reply, that the British arms should never be stained by such an act of retaliation. He compared dates to show that, at this time, Prevost did not know of the ravaging of the Niagara frontier, and argued, from the dates and distances, that it was impossible he could have ordered it; although, afterwards, in his proclamation, he held out the idea that he had commanded it in retaliation for the burning of Newark, which he calls an "act of meanness and cruelty." The proclamation was evidently, palpably, nothing more than a mere salvo to cover the infamy of an act which he had before condemned, as tarnishing the British arms. Mr. R. inferred, from the whole case, that the country had been wasted solely because it afforded a shelter to our army, and enabled it to act with effect against the forces on the other side. If so, ought not the House to go back to the principle of its own act of 1816, under which a part of these claims had already been paid? Mr. R. concluded by assigning some reasons why he had felt himself bound to deliver his sentiments on this subject, conceiving that his course, on a former occasion, might otherwise have led to a false conclusion as to what were his principles in relation to the Niagara Claims.

Mr. FARRELLY, of Pennsylvania, rose, and, in an argumentative speech of some length, advocated the bill. Conceiving that the dispute which had taken place, regarded rather the facts of the case than the principle on which the law should be framed, he proposed to inquire whether the property for which indemnification was claimed, was, or was not, a legitimate subject of destruction by the enemy. To determine this point, he argued, it ought to be remembered that the Niagara Frontier was the only point from which the Government proposed to make a descent upon the enemy's territory. It was here that, in 1812, an army had been collected and commanded by a gentleman, now an honorable member of this House, (Gen. SMYTH,) and it was from this frontier, that, in the fall of that year, another honorable member (Gen. VAN RENSSALAER) had made a descent on the Canada lines. These facts were sufficient evidence that this was the place from which we intended our hostile operations to proceed: yet no barracks had been provided; no arsenals were built there; no accommodations were prepared for our troops. He asked whether, under such circumstances, it did not become the duty of a British military commander, if he had any regard for the interest of his country, and his own military reputation, to destroy the only means of our army. He found



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that they depended for shelter upon houses and other buildings which were private property. Now, he would further ask, if the United States had built barracks and magazines, whether they would not have been lawful subjects of destruction? And if private houses were used instead, where was the difference as to the right? The enemy might infer, from what had happened in 1812, that the same thing would happen again in 1813, especially as no barracks had since been built; and, as he knew that it was impossible for troops, in the month of December, to remain in that climate without shelter, it was his duty as a commander to divest them of the only shelter they could obtain, which was in private houses. Gentlemen had said that it does not appear that the occupation was the motive for destruction; but, Mr. F. said, he would ask, does it appear that such was *not* the motive? We know that, when Buffalo was destroyed, there were 2500 men quartered there; and the enemy found that, by destroying one village, he could put it out of the power of our Government to maintain a single post—to keep a single soldier on all that line of frontier. Was not this a sufficient motive? Some gentlemen seemed to disbelieve that these buildings were occupied for military purposes at all. But surely all the testimony went that way; and if facts so well substantiated were to be overturned by mere supposition, and by a theoretical view of national law, he knew not what use there was in testimony, or how facts were ever to be ascertained.

Other gentlemen had insisted that the burning of our frontier, being on a principle of retaliation, was contrary to the law of nations, and, therefore, the Government is not bound to pay. But Mr. F. denied the position, and he defied them to show, in any approved writer on international law, such a doctrine as that retaliation was unlawful. The reverse was true. All writers admit that, when retaliation is just, it may be practised as a means to prevent the repetition of injury. Though we admit that the burning of Newark was a barbarous act, yet the retaliation of it was lawful on the part of the enemy—it was only following the example we had set—and we had rendered the act lawful by our own unlawful conduct in the first place. When our Government commenced a system of destruction of property, it must have known that it incurred the risk of retaliation. It must have known that the burning of Newark rendered Buffalo unsafe; and, if Buffalo was afterwards destroyed, the Government had itself to blame for it.

But, it had been argued by other gentlemen, that it would be very bad policy to pay for these acts of depredation, lest we should thereby induce the enemy to pursue such a course in future wars, with a view to weaken the Government by draining the Treasury. What! asked Mr. FARRELY, are we to be deterred from doing what is in itself just by a principle of fear?—fear of the enemy? Do we dread our enemies as if we had no means of retaliation in our power? Sir, if the enemy do pursue such a system we have a remedy at hand. When they burn one town we will burn two—until, by a severe measure of retaliation, we compel them to quit their predatory system. We will meet them on their own ground; if they forsake the course of regular and civilized warfare, we will forsake it too for a time, till we drive them into it again. Sir, if we are afraid of the enemy's depredations, we ought never to go to war. Are we to shrink the moment he goes beyond a certain line, and fold our hands for fear of our finances? No; but meet him in every shape he chooses to assume.

I do not now attempt to justify the enemy in acts of wanton outrage. Far from it; but I never yet heard or met with an argument that satisfied me that the burning of those buildings was not an act of legitimate warfare. There was the whole power of the United States concentrated, as it were, in a space of about 35 miles; the British force was 3,000 miles from its native country; and,

after reaching the American shores, had another thousand to travel ere it reached the scene of action. Ours, on the contrary, was close at home, with a country all powerful behind it. What could render it necessary for us to destroy the beautiful village of Newark? All our troops were on our own side of the line. Up to that time no effort had been made, on the part of the Canadas, to invade us, but every effort was made by us to invade them. Canada was acting only on the defensive, and there could be no plea of necessity for such an act. On our side there was nothing from the head of Lake Ontario to the outlet of Lake Erie, but the village of Buffalo; nothing to excite either cupidity or malice. But the moment Newark was burnt, the destruction of our whole frontier was insured, the moment it should be in the power of the British to effect it. It was melancholy to contemplate such acts between those who claimed to be the only Christian nations of the world: but they have occurred, and we may now with propriety inquire and reason on the causes which produced them.

Mr. MARTINDALE, of New York, then rose, and observed that he was opposed to the amendment, and should assign the reasons of his opposition lest they might be misunderstood. He was opposed to the present modification of the bill because it established an unjust distinction between the claimants, which was not founded in reason and the nature of things, and which, in his judgment, did not comport with the justice and the magnanimity of the American Government. The bill, even in its original form, established, if rigidly interpreted, some distinctions which he thought objectionable; but the amendments which had been proposed to it went to increase them. By the bill it was required to be shown that, when the buildings were destroyed, they were in the occupation of the United States, by orders of some officer of the United States. Now the fact was, that there had been, on that frontier, much occupation without any such order. The whole country was little else than a cantonment; the houses were made depots for military stores or barracks for troops, and their destruction was as really caused by this, when it happened without an order, as when it happened by an order. Other buildings had been destroyed in consequence of those immediately adjoining them having been thus occupied. The occupation of a building by the United States thus made it a nuisance to those near it, and he saw no reason which should induce the Government to provide relief for one sufferer and not for all. The facts, said Mr. M. are before you; they are undisputed; the whole country suffered together: and shall the American Government make distinctions between sufferers who had no merit the one over the other, but endured a common calamity? I had rather extend the bill than retrench or restrict it. Mr. M. insisted that there was no instance in history of such losses not being compensated by Government. What was the case at Newark? No sooner did the British Government hear of its destruction, than they extended the liberal and the helping hand. The claim was just, and the conduct of the Government politic. It would be equally politic in us—nay, tenfold more so. It would strengthen the confidence of the people in their Government. But, do you, on the contrary, seek to alienate the affection and the trust of your citizens? The very way to do so is, first to show yourselves weak, and then show yourselves unjust also. Mr. M. then recapitulated the facts of the case, as before stated, in debate, &c. As soon as the enemy had been irritated by the burning of Newark, the whole American force was withdrawn, and the frontier left defenceless. The Government ought to pay the claims, were it only as an act of penance for such an instance of folly. He protested against any investigation of the motives of the enemy—ridiculed the plea of the Treasury's being in danger from the amount of the claims. What, asked Mr. M. is the Treasury of a free people? It is the wealth of the

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whole nation, as its strength is the personal services of the whole nation. Does the payment of the people's money back to the people, to satisfy a just demand, weaken the nation? It strengthens it.

In answer to the argument of the impolicy of such a measure as this, on the score of its encouraging depredations in future, Mr. M. asked if the fact that the British Government had indemnified the sufferers at Newark, operated to encourage us to repeat such an act as the destruction of that beautiful village? Far from it. Respect for our own character—for the laws of civilized war—for the power of public opinion, were sufficient to restrain us.

He thought that the indemnification of the sufferers, instead of rendering them slack in the defence of their property, would rather inspire them with a love for their country and their Government, which would lead them to defend both with increased ardor.

As to what had been said against the payment of the claims, on the ground that the destruction was an act of retaliation, he admitted the fact, but could not perceive any force in the argument. Either the retaliation was just or unjust. If just, it surely increased the strength of the claim; because it was induced by an act of our own Government. If unjust, why did not the Government get compensation in the treaty of peace? It had neglected to do this, and, therefore, was liable. It did get compensation for the slaves carried off: why not for these spoiliations? The Government is estopped, by its own act, from complaining of them as unlawful, if considered as retaliatory. He put a case, in answer to Mr. BARNBURN's observation, respecting a claim of the Government for lost slaves, which Mr. B. said he should oppose if it had been offered. Suppose our Government had done the same thing, by carrying off the slaves of the enemy, as they did by carrying off our's, and then the losers should ask indemnity from the Government: would the gentleman from Virginia oppose such a claim? He suspected not. Mr. M. concluded with a strong declaration of his conviction of the justice of the claims generally.

The question was then taken on Mr. COOK's amendment, (requiring it to be proved that the property had been abandoned in consequence of the approach of the enemy,) and decided in the negative.

Mr. STORRS' amendment, (requiring it to be proved that the property was in occupation of the United States at, or shortly before, its destruction,) was carried—ayes 114.

Mr. STORRS then moved a farther amendment, in the following words:

"Unless the whole amount of such claims, so approved, shall exceed the sum of 350,000 dollars; and in case the whole amount of such claims, so approved, shall exceed the said sum of 350,000 dollars, then it shall be the duty of the Secretary of the Department of War, to cause a list of all claims so approved to be transmitted to the Treasury Department, and the said claimants, respectively, shall be paid in such certificates only a rateable proportion, in common with the other claimants, of the said sum of 350,000 dollars."

The question being put, the amendment of Mr. STORRS was adopted—ayes 75, noes 73.

Mr. FORSYTH then offered the following amendment:

"And be it further enacted, That the value of every slave impressed into the public service during the late war, either as a boatman, wagoner, sailor, or laborer, and lost to the owner in consequence of his impressment, shall be paid to the owner out of any money in the Treasury, not otherwise appropriated: the circumstances of the loss and the value of the property to be proved by the owner, under such rules as shall be prescribed by the Secretary of the Department of War."

Mr. F. explained the amendment in a few observa-

tions, correcting a misunderstanding respecting the provisions of the Treaty of Ghent, on the subject of indemnity for slaves carried off. It included no provision for such as had been pressed into the public service. (He quoted the proceedings of Congress at a former session, on this subject, showing an attempt to have slaves used as boatmen and wagoners included, which had been proposed by Mr. MAYNANT, but without success.)

The question being taken on this amendment, it passed in the negative, without a division.

Mr. WRIGHT then, signifying that he had an amendment to propose, moved that the committee rise; it rose accordingly, and had leave to sit again.

#### IN SENATE.—WEDNESDAY, JANUARY 5, 1825.

Mr. JOHNSON, of Kentucky, from the Committee on Military Affairs, asked leave for the committee to be discharged from the further consideration of the following resolution, offered by Mr. MACON, on the 20th ult.

"Resolved, That the Committee on Military Affairs be instructed to inquire into the expediency of limiting the number of Cadets at the Military Academy at West Point, to the number of Members in the House of Representatives, and that the number to be admitted from each state and territory, respectively, shall be the same as that of the Representatives to which such state or territory shall be entitled; and that the brother of no person educated at the Academy shall be admitted, so long as there be other applicants, and that provision be made for admitting from the District of Columbia."

Mr. MACON regretted that the committee had disapproved of the proposition contained in the resolution. It was an object he had long had in contemplation, and had reserved for the close of the present administration. It had been his intention to offer it at the close of the last administration, but omitted it. It was alleged that the subject ought to be left to the discretion of the War Department; but he was opposed to leaving any thing, in which the whole nation was interested, to discretion, when it could be fixed by law. Favoritism would exist, as it had always existed, unless we attained greater perfection than had ever been attained, or could be expected. He would, therefore, in this matter, prevent favoritism, by withholding discretion, and establishing the rule on a fixed principle, by law. The nation contributed equally to the support of this institution, and he would distribute its benefits equally. He would even, if it were practicable, allot one Cadet to each particular Congressional district, so as to make the benefits of the institution as diffusive as possible. As to the rule, however, of having not more than one cadet from one family, he would like to modify that so far as to say, that, where the father had been killed in service, the rule should not apply. Mr. M. said, he knew how difficult it was to resist a committee in this body, but he hoped the Senate would not sustain the committee in their unfavorable decision on the proposition.

Mr. JOHNSON observed that the practice of the War Department in the appointment of Cadets was now, and had, for some time, been, substantially the same as that recommended by the resolution—that was, that the number admitted from each state was in proportion to its representation in Congress. So far, therefore, legislation, the Committee, at least a majority of them, thought was unnecessary. On the other feature of the proposition, that which regarded the aggregate number of the Cadets, the committee differed from the mover of the resolution. They did not deem it expedient to reduce the number of Cadets at present allowed by law. However, Mr. J. said, if the Senate agreed with the honorable mover, and disagreed with the committee, and would instruct the committee to bring in a bill conformable to the resolution, he for one would perform his part of the labor of preparing it with pleasure. He would, therefore, move.

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that, for the present, the subject be laid on the table, that it might be further considered.

This motion was agreed to, and the subject was ordered to lie on the table.

#### HOUSE OF REPRESENTATIVES.—SAME DAY.

Mr. MERCER laid on the table the following resolves:

*Resolved*, That the Secretary of War be directed to lay before this House any information in his Department, which may serve to shew the actual value of such property as was occupied or supposed to have been occupied by the government of the United States and destroyed by the enemy during the late war.

*Resolved*, That the Secretary of the Treasury be directed to lay before this House the amount paid as indemnity to the claimants for property destroyed during the late war in virtue of the act of April 9, 1816, and the subsequent acts amendatory of the same; also, the amount claimed in virtue of the same, and yet unsatisfied.

*Resolved*, That the Secretary of the Treasury be directed to lay before this House so much of the returns of the assessor under the late law imposing a direct tax, as shall embrace the assessment of the value of the lands and buildings situated on the Niagara frontier in the state of New York.

These resolutions gave rise to a conversation, in which Messrs. MERCER, LITTLE, DWIGHT, STORRS, TRACY, WILLIAMS, of North Carolina, FOOT, and INGHAM, took part; during which the first resolve underwent some modification to make it read as it now stands. There was no objection made to calling for the information; but it was doubted by the gentleman from New York, whether any valuable information on the subject was in the possession of the War Department; whether it could have any bearing on the bill; and, whether all the information, bearing on this subject, was not now to be found on the records of the War Department. In reply to which, Mr. MERCER said, that he had himself seen testimony in the War Department, which he considered to have an important bearing, to show which, he stated that he expected the testimony asked for by the first of these resolutions, would establish the fact, that the officer who commanded the troops at Buffalo, and signed the capitulation on that occasion, had received, as an indemnity for his loss of property on that occasion, *six times* the actual value of the property. No further objection was made to the resolves, though Mr. TRACY took occasion to remark, that he had no idea that the papers called for would disclose any facts which could, in any manner, affect the general principles of the bill now pending in the House.

In the end, the resolutions were severally agreed to, *nem. dissente.*

#### NIAGARA CLAIMS, &c.

The House then proceeded to the orders of the day, and again went into committee of the whole on the bill for the relief of the Niagara Sufferers, Mr. CAMPBELL, of Ohio, in the chair.

Mr. WRIGHT moved to strike out the *whole* bill, and substitute thereof the following:

"That any person, having a claim for a building destroyed by the enemy during the late war, under the ninth section of the act to which this is an amendment, and of the act to amend the same, passed the third of March, 1817, which shall have been presented to the Commissioner of Claims, appointed under the act first aforesaid, at any time before the 10th of April, 1818, and which was not paid under said acts, nor finally rejected by said Commissioner, may, within nine months hereafter, present the same, with the evidence to support it, to the Third Auditor of the Treasury, for examination and adjustment; and, if he shall be satisfied the building or buildings for which damages are claimed, was, at the

time of its destruction, occupied by order of any agent or officer of the United States, as a place of deposit for military or naval stores, or as barracks for the military forces of the United States, and that such destruction was the consequence of such occupation, he shall proceed to assess the damages, and certify the amount for payment, in the way pointed out in the act first above referred to, which shall be immediately paid out of any money in the Treasury, not otherwise appropriated: *Provided*, That, if the Auditor shall be satisfied the evidence before him is insufficient to enable him correctly to decide between the United States and the claimant, he may, on giving notice to the claimant, cause other evidence to be taken."

In support of the amendment, Mr. WRIGHT observed, that the question involved in the present bill presented itself to his mind in a point of view different from any which he had heard it stated during the present debate. A reference to the law of nations, as laid down by writers on that subject, would result only in this, that, on the question of a liability of a sovereign to make good the losses of his subjects during a state of warfare, those writers were undetermined—no rule was definitively settled, and the matter was left, in a great measure, discretionary with the sovereign to act as he felt himself able in the case. But the view entertained by Mr. W. avoided, he said, this whole inquiry. There was no need of settling the line of difference between a perfect and an imperfect obligation. He thought that the claims which were now the subject of consideration, might all be adjusted on principles and rules, settled, not by the writers on national law, but by the course of our own legislation, and he held that, when once our own acts had settled a rule, it was as binding on Congress as any decisions of civilians could be. If he understood the report of the committee who were appointed to investigate this subject in 1817, there was a great difference between it and the ground taken by some of the friends of the present bill; nay, there was an equally great difference between the ground they took and the bill itself. The gentlemen tell us the present bill is meant to carry into effect the act of 1816. So far, said Mr. W. I am willing to go. I believe, that at least some of these claimants have a right of indemnification; but when gentlemen depart both from the report and from the bill, and argue for principles foreign to both, I ask the committee to pause before it adopts them. The report rests the claim of these sufferers on two grounds: 1st, the testimony taken by the Commissioner under the act of 1816; and, 2d, the neglect or inability of this House to carry that law into effect. My proposition is, to send the claims to an accounting officer of the Treasury. To this it is objected, that there are upwards of two hundred distinct claims, and that, after all the delay which has already happened, any further postponement amounts to a denial of justice. I admit that, were my proposal productive of delay, it would be liable to this objection, for a delay of justice may be carried so far as to amount to a denial of it. But the objection goes on an hypothesis far beyond this—it goes on a presumption that the accounting officer of the Treasury will decide against these claims under the law of 1816. Now, this, sir, in my apprehension, is a mere begging of the question. It is said, indeed, that the Third Auditor has already decided in accordance with the views of the Committee of Claims, against the sufferers. Sir, I deny the position. The Third Auditor never has decided, he never had power to decide, on any of these claims. It is true, indeed, that, by the act of 1817, certain duties of the Commissioner of Claims were transferred to him, but no authority was given him to decide on any of these claims; and Mr. W. was not prepared to say, beforehand, that a department of this Government would in all cases violate its duty.

I am far, said Mr. W. from objecting to pay what I be-

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lieve to be due to these claimants. Nor do I object to the present form of the bill because it may oblige the Government to pay more than was at first expected. All claims that we have decided, by the act of 1817, ought to be allowed, I am still in favor of allowing. Here Mr. WRIGHT went into an examination of that act, and contended that there was the most satisfactory proof that much of the property destroyed at Buffalo, &c. came within its provisions. Most of the cases of destruction had happened to buildings then in the occupation of the United States or its agents. He took a view of the condition of the army on the Niagara frontier, and insisted that, from the very nature of the case, it was evident that the buildings must have been occupied as the claimants state: and he assented to the doctrine which had been well laid down by the gentleman from Vermont, (Mr. BRADLEY,) that the Government, having taken possession of private property, for its own use, were bound to protect the property while they held it, to restore it uninjured when they had done using it, and if it were destroyed while in their hands, to make good the loss. Has it been restored? Mr. W. asked. It has not, said he. Is the Government able to restore it? No. And can we refuse to pay for it? I apprehend not.

In answer to the objection, by some gentlemen, that the facts alleged by the claimants are not made out, Mr. W. said, we have American officers of all grades, from generals down to subalterns of the lowest rank, who all testify to the destruction, and to the reason of it. In addition to this, we have the concurrent testimony of the officers of the British forces to the same effect. The gentleman from North Carolina, (Mr. WILLIAMS,) had, indeed, instituted a comparison between the credibility of an English officer of artillery drivers, and the admiral who had committed such depredations in the Chesapeake. Were it important to settle that question, Mr. W. said he should not hesitate to prefer the testimony of a soldier, incidentally brought to testify to a fact within his knowledge, to the letter of a diplomatic marauder, who was about to commit cruel ravages on our territory, and who sought, beforehand, by argument and assertion, to put our Government in the wrong. As to the proclamation of Prevost, it was a paper got up to serve a turn, and carried its own explanation on the face of it.

But why, he asked, did gentlemen resort to this kind of evidence? Did they delight to cast discredit on our own officers? And would they, for such a purpose, have recourse to testimony that would be scouted out of any court of justice? He could conceive of no reason for such a course, unless it might be, that gentlemen were startled at the amount claimed, and caught at straws, to avoid its payment. Here Mr. W. referred to the testimony to show, that, while Buffalo was in the act of being burnt, a remonstrance was made to Gen. Riall against burning the Court House, as it was a building altogether of a peaceful character; that the British commander immediately ordered the building to be extinguished, and that the order to burn it was not renewed until he found, on inquiry, that the Court House had been occupied by the American forces. In the face of all this evidence, it is denied by some gentlemen, that there is any proof that the burning was a consequence of the occupation; and it is insisted that, if we send the claims to the Auditor on this evidence, they will be rejected. Mr. W. said he could not believe any such thing.

He asked by what right Government could, in any circumstances, take possession of private property? The only right was contained in that article of the constitution which expressly provides that the right shall not be abused. It says, that "private property shall not be taken for the public use without just compensation." You have taken the property, said Mr. W.; it is destroyed. Are you not bound to make good the loss? Nay, in many cases, even this is not enough. Justice demands not

only payment for the actual loss, but compensation for the use also.

It is maintained, however, that the occupation was transient and temporary—a mere quartering of troops. But, sir, asked Mr. W. what right have the people given to Government to quarter soldiers upon the citizens? The constitution expressly prohibits it in time of peace; and, in a time of war, it allows it only on condition that it shall be done in a due course of law. Now, sir, I would thank gentlemen to show me the statute which gives any directions how troops shall be quartered on the citizens of these states. There is no such law, and there is no such right. You did it by an exertion of physical force; and, in so doing, the Government was a trespasser, and it is, beyond question, responsible for the trespass, on the same principle that an individual would be, with this only difference, that it has no superior before whom it can be compelled to answer for its deed. The Government has virtually acknowledged this, and, in consequence, passed the law of 1816. Here Mr. W. went over the history of the several steps which had been taken to liquidate the claims and relieve the sufferers—he pronounced the interference of the President to arrest the course of decisions by the Commissioner, to be the exertion of a very extraordinary power. He would not judge his intentions in so doing, nor would he condemn what Congress seemed to have approved. He then recited the provisions of the act of 1817, and insisted, that as soon as the claimants had complied with the directions of that act, in proving their losses, the Government was actually under a contract to pay them. He could not believe that any gentleman, who would undergo the labor of examining the claims, the law, and the proof which had been adduced under it, could possibly remain in doubt that the Government was as much bound to pay as a sovereign power could ever be. It had left itself no discretion, but had expressly stipulated to pay on proof being made.

Yet, said Mr. W. I am opposed to the present bill. I am opposed to it as proposing one thing and doing another. It proposes only to carry the act of 1816 and '17 into practical effect; but it does in truth relax the restraint imposed by those laws, and thereby extends their provisions. Now, I am as much opposed to extending those laws as I am in favor of giving effect to them as they stand. The present bill removes the proviso in the 9th section of the act of 1816, which requires that the occupation shall be proved to have been the cause of the destruction. Why should this proviso be abolished? Was it found, in practice, to work badly? Mr. W. had seen no evidence that such was the case. Why then reject it? We are told, indeed, that, if we retain it, the officer of the Treasury will reject every one of these claims. He was not prepared to entertain such a suspicion. If this proviso was rejected, then the act of 1816 was not carried into effect by the present bill—but on the contrary a door would be opened for a multitude of claims which that act never intended to allow; and, without that proviso, he, for one, should certainly vote against the bill. Another respect in which the principle of the present bill differed from that of the acts of 1816 and '17, was in the allowance of one half the amount of all personal property destroyed. Why this clause should be added, he could not see. It had no proper connection with the bill. The sufferers might, for aught he knew, be very meritorious persons—and the allowance might, in many cases, be very proper—but the present was an amendatory act, and this was an entirely new provision. On this ground he objected to its introduction as a part of this bill. This clause, surely, could not be pretended to be a fulfilment of the law of 1816.

A third objection he had to the bill, as now amended, was, that it proposed to limit the gross amount to be allowed. He was bound, on principle, to oppose this feature of it. As he believed the Government to be solvent,

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if the debt was a just one, it must be paid. He was not desirous that the American Government should compound with its creditors, and take the benefit of any insolvent law. Either the claims were unjust, and then they should not be paid, or, they were just, and then they ought to be paid to the uttermost farthing.

The amendment which he had submitted would, if adopted, simplify the bill—it preserved the whole of the act of 1816—and it removed all the objections to which the bill as first proposed was found liable. He hoped it would be adopted.

Mr. ISACKS, of Tennessee, rose in support of the amendment of Mr. WRIGHT. He was not so well satisfied with any shape into which the measure proposed had been cast. He would not, he said, travel over the ground which had already been gone over by those who had preceded him; but he thought, that, in its present situation, the Government must do one of three things: it must either, first, grant no relief to the sufferers, or, secondly, adopt a new principle in granting relief, or, thirdly, adhere to the principle of the acts of 1816 and '17. He approved the last of these courses; and he advocated the amendment of the gentleman from Ohio, because he conceived it followed precisely that course. He insisted on the promise of the Government as pledged by those acts to the claimants. The acts were still in force, the promise was still held out, and still binding; and the amendment proposed a mode in which it would be redeemed. He approved it, because it proposed to relieve the Niagara sufferers precisely on the same ground, and in the same manner with other sufferers. He strongly objected to the presumption that the Third Auditor of the Treasury would reject the claims. It was the part of this House to presume that an officer of the Government would do his duty, not that he would go in contradiction to it, and this general presumption was in the present case greatly strengthened by the well-known character of the officer in question; his character was a sufficient guarantee that he would do his duty. Mr. I. was in favor of affording relief, but entirely opposed to the introduction of any new principle in doing so. Let us, said Mr. I. redeem our pledge: if we do this, there can be no just complaint. But, if we do less than this, the sufferers will, I think, have just reason to complain of their Government.

The question was then taken on Mr. WRIGHT's amendment, and decided in the affirmative—Ayes 71, Noes 61.

Mr. FORSYTH proposed an amendment making provision for remunerating the extra services of the Third Auditor, which would have to be rendered under this bill, should it become a law in its present shape.

The motion was opposed by Mr. WICKLIFFE, as being premature, and lost by a considerable majority.

The committee then rose and reported the bill.

Mr. WRIGHT's amendment having been read in the House—

Mr. STORRS rose, and moved, as a further amendment, to add to the substitute of Mr. WRIGHT the following proviso:

"And provided further, That the said Auditor shall not require from the claimants on the Niagara frontier, proof that the destruction of their houses or buildings which were so occupied, as aforesaid, by the United States, was caused by such occupancy."

Mr. STORRS observed, that the proceedings in committee of the whole had brought the question back precisely to where it was when they started. The whole difficulty respected the proof of what was the cause of the destruction of the property, and the point the House had to settle was, whether they would determine this question, or would send it to the Third Auditor, that he should determine it. The question respecting the cause of the destruction was all that had prevented these claims from being satisfied long ago—that was ever the sticking place. On that ground it was that the Com-

mittee of Claims had rejected so many cases which came individually before them. That committee constantly allowed the loss to be proved—but as constantly denied that it appeared in evidence that the occupation of the buildings by the United States was the cause of the destruction. Let us see, said Mr. S. what a class of claims we are sending to the Third Auditor. To establish what was the character of this class of claims, Mr. S. turned to the printed copies of the evidence before the House, on this subject, and reviewed the testimony of the several officers of the United States, and of the commanding General himself, that he authorized the occupation of those buildings, which were proved by other testimony to have been, in some instances, forcibly taken possession of. With such proof as this before the House, could it be necessary to send these claims to the Third Auditor? Why not settle the question here? If the amendment were refused, it would be to say in effect, that persons whose houses were taken from them by the United States at the point of the bayonet, and afterwards destroyed, must prove that their property was destroyed because it was so taken from them. How could claimants, so situated, prove what was the object of General Drummond, or whatsoever other British officer ordered the burning of their houses? It would be unreasonable to send these claimants to the Third Auditor to prove any such thing as that. He hoped, therefore, that his motion would prevail.

Mr. BUCK, of Vermont, said, that, in deciding the question of fact, whether the property on the Niagara frontier had been destroyed because of its occupation for military purposes, or on the principles of retaliation, he had, in a previous stage of the debate, thought proper to produce a document which, it struck him, had escaped the attention of many gentlemen in the House. That document having since been spoken of in debate, as being one of a perfectly diplomatic character, as being destitute of sincerity or truth, &c. it became a matter of some importance to examine the circumstances under which the proclamation of General Prevost, of which he spoke, had been issued. Before doing that, however, he noticed the argument that the occupancy of private property by the Government, authorized the destruction of the property, because, by such occupancy, it was converted from a private to a public character. Who has ever denied, said Mr. B. that the destruction of property, of a public character, by an enemy is consistent with the rules of war? And, if this was the true reason of the devastation of that frontier, why did not General Prevost assign that motive in his proclamation, seeing that it would have unquestionably justified his conduct in the eyes of the whole world, in the eyes even of gentlemen on this floor, who now so strongly condemn the act? The proclamation in question may have been a piece of diplomacy, but, if it was, it was of a kind which defeats its own object. Sir George Prevost would have been a perfect fool, having this justification, to assign for the destruction of the buildings on the Niagara frontier a pretence contrary to truth. Of Governor Prevost, Mr. B. said, that incidents which had occurred during the late war, authorized him to speak of him as being a man distinguished, so far as he could control events, by humanity, by a sense of justice, by honor, and by dignity of character. He did not believe that Sir George Prevost could have resorted to falsehood to cover his own action. It had been said, he knew, that the averments in the proclamation were contradicted by other testimony, among which was that of Capt. Swazy, a captain of artillery drivers, who deposed, that he had suggested to Sir George Prevost the expediency of a retaliation of the burning of Newark, and that Sir George had said, that, so long as he had a control of the operations on that frontier, he should not sanction such a measure. And yet, eleven days after the devastation of that frontier, Sir George Prevost came out and declared to the world, in a solemn public act, that retaliation was



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the sole motive to that devastation. Mr. B. here quoted the language of the proclamation, reciting the so wanton and barbarous cruelty committed on the unoffending subjects of his Britannic Majesty, by the United States, as being the ground of the retaliatory measure. This document, Mr. B. said, would be transmitted to posterity, and on the pages of history it would be considered as a document giving character to the transactions of those days. Posterity would not be benefitted by the observations of gentlemen on this floor, who treated the question as one of mere diplomacy. The fact of the destruction of that frontier, as a measure of retaliation for supposed injuries and violations of the rules of civilized war, by the United States, would be established, and well sustained, by the records of the times. Mr. B. replied to some other observations which had fallen from gentlemen in the debate; in the course of which he said that there never was a man placed in a more critical situation than Sir George Prevost, during the late war; adding, that the ingenuity and ability of that man had enabled him, during the war, with very limited means, to foil all the exertions of the American Government, with the exception of the closing scene at Plattsburg, which had redounded so much to the honor of the American arms. Mr. B. said, however, in conclusion, that he had only risen to show that the devastation of the Niagara frontier was an act of retaliation, and was inflicted on no other principle whatever: and, Mr. B. said, so far as this question was to be affected by the amendment by the House, he was disposed to vote against it.

Mr. ROSS, of Ohio, rose to notice an allusion to a remark of his, by Mr. B.—which allusion, upon explanation by Mr. Buck, it appeared Mr. Ross had misunderstood. Mr. R. then went on to observe, that all he had meant to say on the subject of the proclamation of Sir George Prevost, was, that we must believe, either that Captain Swazy had told the truth, or that Sir George had told the truth, and of course that some one of them had not told the truth; for their contradictory declarations could not be reconciled. Those persons were equally officers of the British Government, and, though of unequal rank, were to be considered as equally credible witnesses. What motive had Capt. Swazy for lying on the subject? When Sir George Prevost justifies the devastation of that frontier, on the principle of retaliation, does he tell the truth or not? Conversing with Captain Swazy, Sir George Prevost rejects the advice to retaliate for the burning of Newark, and, eleven days after the ever damnable scenes of cruelty, in the devastation of the Niagara frontier, he issues a proclamation, justifying that atrocity on the plea of retaliation! Innocent women and children were turned out of doors in a most inclement season by the devouring flames which consumed their dwellings—and, when these sufferers came here for some indemnity for their losses, the House was told of the virtues, and honor, and magnanimity of Sir George Prevost. Not far from the blood-stained plains of Raisin, said Mr. R. are to be found, at this day, wandering, barefoot, and almost naked, some of the persons who were driven from their homes that fatal night, and whom the ingratitude of the country has since kept houseless; and now, when ten or twelve years have elapsed, and a proposition is presented for their relief, the cold calculations of statesmen, and ingenious disquisitions on abstract principles, are brought to bear against it. In 1814 or 1815, said Mr. R. you did not act upon this principle. The public sentiment would not have suffered you to do it. We acted then, said he, on just and generous principles. He meant not to—God forbid that he should—impute to any man who was opposed to the bill any unfair motive. He had but appealed to facts, some of them within his own knowledge, to show the strong claim upon the House of those to whom this bill proposed to render tardy justice.

Mr. TRACY rose merely to state the fact, as established by the testimony, that Sir George Prevost was at *Quebec* at the time of the devastating excursion of the enemy on the Niagara frontier, and that therefore it was not made under his immediate direction.

Mr. COOK, of Illinois, said, whether it was true or not that the destruction of property on our frontier was founded on previous acts of this Government—whether it was a violation of the law of nations or not—whether Sir George had stated the fact or not—could not be urged in bar of the claim of those who present themselves for remuneration for the loss of property destroyed whilst in the possession of the United States. It seemed to be admitted on all hands, that indemnity ought to be provided for all cases of property destroyed under that circumstance. It was wholly immaterial what was the motive for the destruction of it; for, if property actually occupied was to be paid for when destroyed by the enemy, surely other claimants ought not to be debarred indemnity for property destroyed, though their property was not occupied by the United States, if its destruction had been caused by fire communicated from buildings that were destroyed in consequence of being occupied.

Admitting the statements of the proclamation to be true, and that they were to affect any description of the claimants, it yet ought not to bear upon any other property than that which had not been in possession of the United States. If the bill were rejected on the ground taken by the gentleman from Vermont, it would be doing violence to a principle which gentlemen on all sides of the House admitted to be a correct one. The motive of the enemy, Mr. C. argued, ought not to be brought forward as an argument against those who have fair claims on the Government independent of his motive.

As to the amendment immediately under consideration, he was in favor of releasing the party from the necessity of producing any other evidence of the cause of the destruction of his property, than the facts which existed at the time of its destruction. He would not seek for Sir George Prevost's opinion on the subject. It was sufficient to establish that, in the ordinary vicissitudes of war, the property was destroyed, or might have been destroyed, because of its being in the occupation of the Government. The facts already in possession of this House were sufficient to satisfy all reasonable scruples in a government disposed to be just, and to fulfil its duties to its citizens. We are acting too rigidly—in too cold hearted a feeling to our suffering citizens, said Mr. C. when we adopt the discrimination which is advocated by some gentlemen, &c.

Mr. STORRS modified his motion so as to withdraw the proviso; and, instead of it, to move to strike out from the substitute which had been agreed to, the words—“and that such destruction was in consequence of such occupation.”

When, on motion, the House adjourned.

IN SENATE—THURSDAY, JANUARY 6, 1825.

On motion of Mr. LLOYD, of Maryland, the Senate resumed, as in committee of the whole, the bill, “for the relief of Gregory Ennis and William R. Maddox.” [The bill provides for paying the petitioners for certain work done on the street contiguous to the Capitol Square.]

The memorial and documents accompanying it were read, and

Mr. LLOYD, of Maryland, then observed, that, as the Senate were in possession of the facts, it was unnecessary to say any thing more on the subject. The work had been done conformable to the contract entered into between the Commissioner of the Public Buildings and the petitioners, and the contract was authorized by law. It had been said that the funds specifically appropriated for that object were not sufficient—that in consequence of the pressure of the times, the public lots had not

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been sold, and there was not sufficient to meet the claims to which they were liable. The question was, whether they would suffer these industrious individuals, who had fulfilled their part of the contract made with the Commissioner, to wait till the lots were sold, out of the proceeds of which they were to be paid, or whether they should be paid from another quarter. They were bound in justice to compel the sacrifice of that property, or provide for the settlement of the claims from some other quarter. It might be said that they were taking money from the public Treasury to pay for a specific transaction; but there was now in the Treasury from 10 to 20,000 dollars, which were paid in by a former Superintendent of the city, and he wished that this claim of \$3,080 should be settled from that fund.

The bill was then ordered to be read a third time.

## HOUSE OF REPRESENTATIVES—SAME DAY.

## NIAGARA SUFFERERS.

The House then proceeded to the unfinished business of yesterday, which was the consideration of the amendment proposed to the substitute of Mr. WRIGHT, by Mr. STORRS, to the bill for the relief of the Niagara sufferers, viz: to strike out the words [and that such destruction (viz: of the property,) was the consequence of such occupation, (viz: by the United States.)]

On this question, Mr. FORSYTH called for the Yeas and Nays, which were ordered accordingly, and were called, resulting as follows:

YEAS.—Messrs. Adams, Bailey, Baylies, J. S. Barbour, Bartley, Beecher, Brent, Brown, Cambreleng, Campbell, of Ohio, Collins, Cook, Crowninshield, Culpeper, Day, Dwinell, Dwight, Eaton, Edwards, of Penn. Findlay, Foote, of N. Y. Forward, Frost, Fuller, Garnett, Gazlay, Gurley, Harvey, Hayden, Henry, Herrick, Herkimer, Hogeboom, Jenkins, J. T. Johnson, Kent, Lawrence, Lincoln, Litchfield, McArthur, McKim, McLean, of Ohio, Mallary, Martindale, Marvin, Morgan, Neale, Patterson, of Ohio, Plumer of Penn., Richards, Rose, Ross, Scott, Sharpe, Sloane, Arthur Smith, Sterling, Storrs, Strong, Taliaferro, Taylor, Test, Tomlinson, Tracy, Vance, of Ohio, Van Rensselaer, Van Wyck, Vinton, Webster, Whittlesey, Williams, of N. Y., James Wilson, Wilson, of Ohio, Wood, Woods—75.

NAYS.—Messrs. Abbot, Alexander, of Va., Allison, Archer, Barber, of Con., P. P. Barbour, Bassett, Blair, Brock, Buchanan, Buck, Buckner, Carter, Carey, Condict, Conner, Crafts, Eddy, Foot, of Con., Forsyth, Garrison, Gatlin, Hamilton, Harris, Hooks, Houston, Ingham, Isacks, Johnson, of Va., Kidder, Lathrop, Leftwich, Letcher, Little, Livermore, Long, Longfellow, McCoy, McKean, Mangum, Mercer, Metcalfe, Mitchell, of Pa., Moore, of Ky., Moore, of Ala., Nelson, Newton O'Brien, Patterson, of Penn., Plumer, of N. H., Poinsett, Saunders, Sanford, Sibley, Wm. Smith, Standefer, A. Stevenson, Stewart, Stoddard, Thompson, of Penn., Thompson of Geo., Trimble, Tucker, of S. C., Udree, Wayne, Whitman, Williams of Va., Williams of N. C., Henry Wilson, Wilson of S. C., Wright—71.

So the amendment of Mr. STORRS was adopted.

Mr. LITTLE moved farther to amend the substitute of Mr. WRIGHT, by inserting the words, "or immediately preceding,"—so as to require proof that the property was occupied by the United States at, or immediately preceding, the time of its destruction.

This motion was decided in the negative.

Mr. COOK, of Illinois, then moved to amend the bill by adding, at the end of the substitute, the following proviso:

"And provided, also, That no payment shall be made under the provisions of this act, where the property destroyed was occupied under a contract with the owner and at the wish of such owner."

The amendment was in part objected to by Mr. LIVERMORE, but, having been explained by the mover, was adopted.

To remove the objection as to the difficulty of proving that the destruction was the consequence of the occupation of property, Mr. ISACKS moved an amendment, which forbade the Auditor to require "direct proof" of that fact where a strong presumption should be established.

This amendment was negatived.

Mr. WILLIAMS, of North Carolina, then proposed to add the following section to the bill:

"And be it further enacted, That the amount which shall appear to have been paid to the owners, as rent, for the use or occupation of the property, shall be deducted from the account directed to be paid to them under this act."

This amendment was opposed by Mr. DWIGHT, as being precluded by that of Mr. COOK, and by Mr. MARVIN, as being unjust in its principle; but it was carried—ayes 107.

Mr. TEST, of Indiana, then moved an amendment, as a substitute for that of Mr. LITTLE, which went to require that the premises should have been occupied within two days of the time of its destruction.

The amendment was negatived.

Mr. FORSYTH again moved the amendment he offered yesterday in committee of the whole, adding a provision to make compensation for slaves lost while employed by impressment as boatmen, wagoners, &c. but it was negatived by a decided majority, only 48 members rising in its favor.

Mr. FORSYTH then offered a motion, making a provision (the amount being in blank) to compensate the extra services of the Third Auditor, required by the bill, which amendment he advocated at considerable length. The amendment was opposed by Messrs. COCKE and LIVERMORE, and lost.

Mr. STORRS offered the following amendment, (in blank,) viz:

"And be it further enacted, That, in case the whole amount of claims presented and allowed under this act, shall exceed the sum of ——— dollars, then, and in that case, the claimants shall, respectively, receive only their rateable proportion of the sum of ——— dollars, to be liquidated by the said Auditor in the adjustment of the amount to be received by such claimants respectively."

The amendment was carried; and, on filling the blank, a motion for \$500,000, and another for \$300,000, having been rejected, the blank was filled with 250,000.—Ayes 98, Noes 68.

Mr. LITTLE then moved to strike out that clause of the bill which confines its provisions to such claims as have already been exhibited, previous to the 10th April, 1818, before the Commissioner, and not acted upon, and to extend it to all which may hereafter be exhibited and proved.

Mr. TRACY explained the reasons which had induced the committee to insert this feature in the bill.

Mr. FORSYTH and Mr. McDUFFIE opposed the amendment at considerable length, and it was lost.

The question being then on ordering the bill, as amended, to be engrossed for a third reading,

Mr. FORSYTH rose in opposition. He said he had been a member of the House at every session at which the subject of these claims had come before it, and he might claim to be thoroughly acquainted with the history of the cases. He had opposed the original act on the subject, in 1816, nor had he seen reason since to repent his vote on that occasion. On the contrary, experience had but confirmed the views he then entertained, and satisfied him still more with the course he had pursued. It was now proposed not to carry the act of 1816 into effect, but to carry still further the provisions of that act, and embrace a class of cases for which it never intended

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to provide. There could be no difficulty as to the abstract principle of the case. The provision of the constitution, which forbids the quartering of troops on the citizens of the United States, against their consent, unless in a manner to be prescribed by law, must be respected. But the law of 1816 was not passed in obedience to the constitution—it was bottomed on a false assumption, and it provided to pay for losses for which the United States are not responsible. That law went on the false assumption that the Government is bound by every act of every one of its officers—an assumption that which none could be more erroneous. It took for granted, that what its officers did, in taking those buildings by force, and quartering troops in them, was constitutional, whereas, it was directly in the face of the constitution. If the Government is bound by every act of its lowest officer, what is to become of the Treasury? If any and every act of a subaltern constitutes, at once, a charge upon the funds of the Government, where is any limit to the responsibility which it may be thus forced to assume? No Government on earth can long be administered if such a principle is once admitted. The acts of these officers were clearly against both the law and the constitution, and the Government was in no wise bound by them. But Congress considered the case as a hard one: and it therefore was induced to pass the law of 1816, by which it established rules, according to which, the proof of loss was to be taken—and one of its leading provisions was, that, to entitle to indemnity, it should be proved that the occupation was the cause of the destruction of the property. This provision, Mr. F. said, was now by this bill to be done away. But, supposing, the acts of the officers had been in strict accordance with the constitution, what does the constitution direct, in case of taking private property for the public use? It requires “just compensation”—that is, compensation for the time in which Government had the use of the property, and compensation for any injury it may have sustained in consequence of its occupation by Government. The Government does not ensure the property against all acts of the enemy, lawful and unlawful. He would illustrate this by a familiar example: a city is bombarded by the enemy, and defended by our own troops, who occupy some of the houses as barracks—a bomb falls on a house adjoining one of those thus occupied, and, in consequence, the barrack catches fire, and is consumed. Would the Government be liable in such a case? The house was destroyed accidentally. There was no connection between the injury it sustained and its occupancy by the United States; and the Government would be no more obligated to pay for the house which was used as a barrack than for the house adjoining to it on which the bomb fell. All the difficulty in the case of the Niagara depredations was the want of proof that the destruction was caused by the occupation; but, without this, the claim against the Government could never be made out. Now, it was said by some, that the destruction was in retaliation for acts of our own forces. By others this was denied. It was a question of fact—and on that point, the whole question turns. It may not be assumed that the occupancy was the cause. He would not, however, enter on that question; it was a difficulty which the House had shifted from its own shoulders, and imposed on those of the Third Auditor.

Another reason of my opposition to the bill, said Mr. F. is the limitation of the amount to be appropriated. The claims are either just or unjust. If they are in their principle just, they ought to be paid, let the amount be what it may. If they are unjust, they ought not to be paid at all. If you limit the sum you will grant, you are not paying debts, but granting favors.

Upon the whole, he considered the bill as, in its principle, tending to subvert the constitution, and in its practical tendency highly dangerous. It was founded on an assumption that Government was responsible, when it

was not responsible, and responsible in a manner in which it was not responsible.

Mr. STORRS acquiesced in the sentiment just expressed by the gentleman from Georgia, viz: that this bill does not go so far as it ought to go; that, if all these claimants who had a just demand upon the Government, were to be paid, it would require a sum far greater than that at which he had himself proposed to limit it. He did not believe that the bill would pay more than 50 or 60 per cent. of the amount of the claims. But, sir, said Mr. S. I have seen these sufferers; I have conversed with them; and so ruinous has been our delay of justice, so long have their hopes and fears been sported with, and such is the present situation of many among them, that they are willing to take whatever you are at length disposed to allow them. They are glad to get any thing at our hands, rather than have your promise any longer

“Kept to their ear, but broken to their hope.”

The bill before you is far from being as extensive in its operation as the gentleman from Georgia apprehends. Let us meet the bill as it is, not as it is not.

As to the objection to the act of 1816, Mr. S. said it was one which he hardly knew in what way he ought to attempt to answer. The gentleman had been opposed to that act, as he had himself informed the House, and it could hardly be expected, therefore, that he should be in favor of the present bill. But, said Mr. S. let us see what he himself proposes respecting slaves: he would have the Government pay for all slaves impressed during the last war, and afterwards lost [Mr. F. explained that he did not refer to all who were impressed, but to all who were impressed lawfully.\*] As to the lawfulness of the acts of the officers of the Government being requisite before the Government will pay or make reparation for them, Mr. S. said there are precedents in abundance on our statute books, which contradict such a doctrine. Here Mr. S. referred to the case of indemnity to Major Austin, for damages obtained against him for acts done in the discharge of an official duty, and to several

\* Respecting this part of the report, the following note, published in the National Intelligencer, more exactly explains Mr. FORSYTH'S views.

Mr. FORSYTH requests Messrs. Gales & Seaton to correct an error in their statement of Thursday's proceedings in the House of Representatives. Mr. F. was in favor of Mr. LITTLE'S amendment to give to all persons whose cases might be covered by the bill before the House an opportunity of profiting by its provisions. The bill, as it stands, is limited in its operation to cases which were presented to the Commissioner for adjudication under the act of 1816, differing materially from the bill under discussion.

Mr. F. is represented as interrupting Mr. STORRS, to explain the motion to add a section for the payment of slaves impressed into the public service. No such explanation was made. Mr. F. does not believe that any slave, or other property, was lawfully impressed, during the late war, into the public service; and, therefore, according to his opinion there is no obligation to pay for them out of the public Treasury. Congress, however, proposing to consider all impressment of property during the war lawful, cannot make a distinction between different species of property without injustice.

The act of 1816 established a principle, and the Legislative body deliberately refused to make the application of it general. As the subject was again under consideration, Mr. F. thought it his duty to give the opportunity to those who believe the principle correct, to apply it to a species of property heretofore excluded. The adoption or rejection of the amendment respecting slaves would have made no difference in Mr. F.'s judgment or vote on the act of 1816, or on the bill now before the House of Representatives. It must be very obvious, however, that the rejection of it must have excited that feeling always produced by legislation which appears to be partial. Mr. FORSYTH, by Mr. STORRS' permission, made an explanation of an argument used by him in the course of the discussion, which had not been clearly comprehended.

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other cases. It had been the invariable practice of the American Government, he said, where any of its officers incurred responsibility in the honest discharge of what he believed to be his official duty, by violating the private rights of the citizens, to indemnify him. In the case of the Niagara sufferers, the Government had acted on this principle; but, instead of first suffering the officers to be harassed, it had interposed and required the citizens who had been wronged, to come at once to the Government, and had promised to settle all damages.

There were other acts on the statute book which were bottomed on the same broad principles, viz. that Government will pay for what is lost or suffered in its service. Accordingly, if any of the arms or accoutrements of a militiaman are lost, without his own negligence, the Government will pay him the value of them. The country has a right to his services; but he is not to be taxed for unavoidable losses. The law of 1818 said that, if any personal property was impressed, or was hired by the Government on contract, unless the risk was expressly provided against by the contract, and the property so impressed was afterwards lost or destroyed, whilst in the use of the United States, it should be paid for. This bill says no more—it only applies to real property the rule which the law of 1818 restricted to personal. He had always thought that restriction improper. If any difference were made, it, surely, ought rather to be in favor of real estate.

When a man surrenders to the public his personal property, he incurs less inconvenience; but when he gives up his house, his castle, and turns his wife and his children out of doors, the Government is more, and not less, bound to compensate any loss or injury he may sustain. It is a debt of honor as well as of justice, and such an one as he trusted the American Government would never refuse to acknowledge. He concluded by observing that such was the situation of many of the claimants, that, to deny them now, would be to deny them forever.

The question was then taken on the amendment to the bill as amended, and decided in the affirmative. The several amendments agreed to, now presented the bill to the House in the following shape:

*“Be it enacted, &c.* That any person having a claim for a building destroyed by the enemy during the late war, under the ninth section of the act to which this is an amendment, and of the act to amend the same, passed the third of March, one thousand eight hundred and seventeen, which shall have been presented to the Commissioner of Claims appointed under the act first aforesaid, at any time before the tenth of April, one thousand eight hundred and eighteen, and which was not paid under said acts, nor finally ejected by said Commissioner, may, within nine months hereafter, present the same, with the evidence to support it, to the Third Auditor of the Treasury, for examination and adjustment; and if he shall be satisfied the building, or buildings, for which damages are claimed, was, at the time of its destruction, occupied by order of any agent or officer of the United States, as a place of deposit for military or naval stores, or as barracks for the military forces of the United States, he shall proceed to assess the damages, and certify the amount for payment in the way pointed out in the act first above referred to, which shall be immediately paid out of any money in the Treasury, not otherwise appropriated: *Provided* That, if the Auditor shall be satisfied the evidence before him is insufficient to enable him correctly to decide between the United States and the claimant, he may, on giving notice to the claimant, cause other evidence to be taken. *And provided, also,* That no payment shall be made under the provisions of this act, where the property destroyed was occupied under a contract with the owner, and at the risk of such owner.

*Sec. 2. And be it further enacted,* That the amount

which shall appear to have been paid to the owners, as rent, for the use or occupation of their property, shall be deducted from the amount directed to be paid to them under this act.

*Sec. 3. And be it further enacted,* That, in case the whole amount of claims presented and allowed under this act, shall exceed the sum of 250,000 dollars, then, and in that case, the claimants shall respectively receive only their rateable proportion of the sum of 250,000 dollars, to be liquidated by the said Auditor in the adjustment of the amount to be received by such claimants respectively.”

The question being on ordering the bill to be engrossed for a third reading—

Mr. MERCER rose, and observed that, as sufficient time had not been allowed to receive from the Departments of the Treasury and of War, communications for which the House had called on those Departments, and which had an immediate bearing on the bill, he felt himself bound to move to lay it on the table.

This motion prevailed—ayes 82, noes 78.

So the bill was laid on the table.

#### CRIMES AGAINST THE UNITED STATES.

On motion of Mr. WEBSTER, the several orders of the day were then postponed, in order to take up the bill for the more effectual prevention of crimes against the United States.

Mr. WEBSTER then, as chairman of the Committee on the Judiciary, entered into an exposition of the provisions proposed by the various sections of this bill, the object of which, and their relation to existing statutory provisions, and their bearing upon cases which have occurred, or may hereafter occur, he explained at some length. He also adverted to deficiencies which he perceived to exist in the bill as reported, and stated several amendments, which, in the course of the discussion of the bill, he intended to propose.

After concluding his exposition, Mr. W. proposed a few amendments to the details of the bill, which were agreed to. After which,

The committee rose, reported progress, and had leave to sit again; and the remaining amendments which Mr. W. intended to propose, were ordered to be printed for the use of the House.

The following Message was then received from the President of the United States, by Mr. EVERETT:

*To the Senate and House*

*of Representatives of the United States:*

As the term of my service in this high trust will expire at the end of the present session of Congress, I think it proper to invite your attention to an object, very interesting to me, and which, in the movement of our Government, is deemed, on principle, equally interesting to the Public. I have been long in the service of my country, and in its most difficult conjunctures, as well abroad as at home, in the course of which I have had a control over the public moneys, to a vast amount. If, in the course of my service, it shall appear, on the most severe scrutiny, which I invite, that the public have sustained any loss by any act of mine, or of others, for which I ought to be held responsible, I am willing to bear it. If, on the other hand, it shall appear, on a view of the law, and of precedents in other cases, that justice has been withheld from me, in any instance, as I have believed it to be in many, and greatly to my injury, it is submitted whether it ought not to be rendered. It is my wish, that all matters of account and claims, between my country and myself, be settled, with that strict regard to justice, which is observed in settlements between individuals in private life. It would be gratifying to me, and it appears to be just, that the subject should be now examined, in both respects, with a view to a decision hereafter. No bill would, it is presumed, be presented for my signature, which would operate either for or

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against me, and I would certainly sanction none in my favor. While here, I can furnish testimony, applicable to any case, in both views, which a full investigation may require; and the committee to whom the subject may be referred, by reporting facts now, with a view to a decision after my retirement, will allow time for further information, and due consideration, of all matters relating thereto. Settlements with a person in this trust, which could not be made with the accounting officers of the Government, should always be made by Congress, and before the public. The cause of the delay, in presenting these claims, will be explained to the committee to whom the subject may be referred. It will, I presume, be made apparent, that it was inevitable; that, from the peculiar circumstances attending each case, Congress alone could decide on it; and that, from considerations of delicacy, it would have been highly improper for me to have sought it from Congress at an earlier period than that which is now proposed, the expiration of my term in this high trust.

Other considerations appear to me to operate with great force, in favor of the measure which I now propose. A citizen, who has long served his country, in its highest trusts, has a right, if he has served with fidelity, to enjoy undisturbed tranquillity and peace, in his retirement. This he cannot expect to do, unless his conduct, in all pecuniary concerns, shall be placed, by severe scrutiny, on a basis not to be shaken. This, therefore, forms a strong motive with me for the inquiry which I now invite. The public may also derive considerable advantage from the precedent, in the future movement of the Government. It being known that such scrutiny was made, in my case, it may form a new and strong barrier against the abuse of the public confidence in future.

JAMES MONROE.

Washington, 5th January, 1825.

The Message was read, and ordered to lie on the table and be printed, Mr. INGHAM for that purpose waiving a motion, which he had made, to refer it to a Select Committee.

## HOUSE OF REPRESENTATIVES—JANUARY 7, 1825.

Mr. COOK, of Illinois, presented the following resolution:

*Resolved*, That the Committee on the Judiciary be instructed to inquire into the expediency of establishing one or more National Penitentiaries for the confinement and punishment of persons convicted of offences against the laws of the United States, to be located at such place or places as shall be most convenient to the different sections of the Union."

In support of this resolution, Mr. COOK observed, that a bill was now before the committee of the whole House, which provided for the punishment of crimes against the United States, and which made between thirty and forty different offences punishable by death. He did hope that, in the present advanced state of human society, those principles which had been handed down from a barbarous antiquity, and embodied in so many of the codes of European legislation, were susceptible, under her Government, of improvement and mitigation—that the severity with which crimes are punished in the old countries, might be diminished consistently with the protection of society against crimes. The bill referred to, besides its long list of capital punishments, assigned to an almost innumerable amount of different offences, the punishment of imprisonment and hard labor. This presented a subject, which would call for the inquiry and reflection of Congress; it opened a wide field, and one which, though often and long explored by jurists and legislators, had never enjoyed so fair an opportunity to be investigated as under a Govern-

ment like ours, in which so much more of sympathy existed between the governors and governed than was to be found under the systems of the old world. He hoped the resolution would be agreed to; and that, if the committee should not have time and opportunity to mature a perfect system for the management of convicts sentenced to imprisonment and hard labor, they might at least be able to report some preliminary steps towards the attainment of a wise and salutary system for effecting so interesting a subject.

The resolution was adopted.

## NIAGARA CLAIMS, &amp;c.

On motion of Mr. TRACY, the House took up the bill for the relief of the Niagara sufferers.

The question being put on engrossing the bill for a third reading, it was decided in the affirmative—Ayes 81, Noes 67.

And the bill was ordered to be read a third time on Monday next.

Mr. WILLIAMS gave notice that, on the third reading of the bill, he should require the question of its passage to be taken by yeas and nays.

## CRIMES AGAINST THE UNITED STATES.

On motion of Mr. WEBSTER, of Mass. the House went into committee of the whole, Mr. CONDUCT in the chair, on the bill more effectually to provide for the punishment of certain crimes against the United States, and for other purposes.

[The following is an abstract of the provisions of this bill, as originally reported:

The first section provides, That, if any person or persons within any fort, dock yard, &c. &c. shall, wilfully and maliciously, burn any dwelling house, or mansion house, or any store, barn, or stable, within the curtilage thereof, every person so offending, his or her counsellors, aiders, and abettors, shall be deemed guilty of felony, and shall, on conviction thereof, suffer death.

The second section provides, That, if any person or persons, in any of the places aforesaid, shall, wilfully and maliciously, set fire to, or burn, or otherwise destroy, any beacon, or any other building, than is in the first section of this act mentioned, or any timber, &c. &c. every person so offending, his or her counsellors, aiders, and abettors, shall be deemed guilty of felony, and shall, on conviction thereof, be punished by fine, not exceeding five thousand dollars, and by imprisonment and confinement to hard labor, not exceeding ten years, according to the aggravation of the offence.

The third section provides, That, if any offence shall be committed in any of the places aforesaid, the punishment of which offence is not specially provided for by any law of the United States, such offence shall, upon a conviction in any court of the United States, having cognizance thereof, be liable to, and receive the same punishment as the laws of the state, in which such fort, dock yard, navy yard, arsenal, or magazine, or other place, ceded as aforesaid, is situated, provide for the like offence, when committed within the body of any county of such state.

The fourth section provides, That, if any person or persons upon the sea, or in any arm of the sea, or in any river, haven, creek, basin, or bay, within the admiralty and maritime jurisdiction of the United States, shall commit the crime of wilful murder, or rape, every person so offending, his or her counsellors, aiders or abettors, shall be deemed guilty of felony, and shall, upon conviction thereof, suffer death.

The fifth section provides, That, if any person or persons, upon the sea, or in any other of the places aforesaid, within the admiralty and maritime jurisdiction aforesaid, shall commit theft by force or violence, &c. or run away with vessels, &c. every person so offending, his or her counsellors, aiders, and abettors, shall be deemed



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ed guilty of piracy and felony, and shall, on conviction thereof, suffer death.

The sixth section provides, That, if any person or persons upon the sea, &c. with intent to kill, rob, steal, commit a rape, or do or perpetrate any other felony, shall break or enter any ship or vessel, boat or raft; or if any person or persons shall wilfully and maliciously cut, spoil, or destroy, any cordage, cable, buoys, &c. every person so offending, shall be punishable by fine, not exceeding one thousand dollars, and by imprisonment and confinement to hard labor, not exceeding five years.

The seventh section provides, That, if any person or persons, &c. shall receive stolen money or goods, &c. every person, so offending, shall be punishable by fine, not exceeding one thousand dollars, and imprisonment and confinement to hard labor, not exceeding three years.

The eighth section provides, That, if any person or persons shall plunder, steal, take away, or destroy any money, goods, &c. from any vessel, which shall be in distress, or which shall be wrecked, lost, stranded, or cast away, &c. or wilfully obstruct the escape of any person endeavoring to save his or her life from such ship, or vessel, or the wreck thereof; or, if any person or persons shall put out any false light or lights, with intention to bring any ship or vessel into danger, or distress, or shipwreck; every person, so offending, his or her counselors, aiders, and abettors, shall be punishable, by fine, not exceeding five thousand dollars, and imprisonment and confinement to hard labor, not exceeding ten years.

The ninth section provides, That, if any master or commander of any ship or vessel, belonging, in whole, or in part, to any citizen or citizens of the United States, shall, during his being abroad, maliciously, and without justifiable cause, force any officer or mariner, of such ship or vessel, on shore, or leave him behind, in any foreign port, &c. he shall be punishable by fine, not exceeding five hundred dollars, or by imprisonment, not exceeding six months.

The tenth section provides, That, if any person or persons, in any case not herein before specially provided for, shall wilfully and maliciously set on fire, or burn, or otherwise destroy, &c. any ship or vessel of war of the United States, whether the same be on float or building, or begun to be built, on any dock yard of the United States, every person so offending, shall, on conviction thereof, suffer death.

The eleventh section provides, That, if any officer of the United States shall be guilty of extortion, under or by color of his office, he shall be punishable by fine, not exceeding five hundred dollars, or by imprisonment, not exceeding one year.

The twelfth section provides, That, if any person in any case, matter, hearing, or other proceeding, when an oath or affirmation shall be required to be taken or administered under or by any laws of the United States, shall commit perjury, he shall be punishable by fine, not exceeding two thousand dollars, and by imprisonment and confinement to hard labor, not exceeding five years. And if any person shall be convicted of subornation of perjury, he shall be punished by fine, not exceeding two thousand dollars, and by imprisonment and confinement to hard labor, not exceeding five years.

The thirteenth section provides, That, if any person, upon his or her arraignment upon any indictment before any court of the United States for any offence, *not capital*, shall stand mute, or will not answer or plead to such indictment, the court shall, notwithstanding, proceed to the trial of the person so standing mute, &c. And the trial of all offences which shall be committed upon the sea, or elsewhere within the admiralty and maritime jurisdiction of the United States, shall be in the district where the offender is apprehended, or into which he may be first brought.

The fourteenth section provides, That, in every case where any criminal, convicted of any offence against the United States, shall be sentenced to imprisonment and confinement to hard labor, it shall be lawful for the court by which the sentence is passed, to order the same to be executed in any state prison or penitentiary, within the district where such court is holden, the use of which prison or penitentiary shall be allowed or granted by the Legislature of such state for such purposes; and the expenses attendant upon the execution of such sentence shall be paid by the United States.

The fifteenth section provides, That the several courts of the United States shall have power and authority, in all cases of conviction before them of any person or persons, for any crime or offence against the United States, in their discretion, to require any person or persons, so convicted, to give security by a recognizance, with surety or sureties, to keep the peace, &c.

The sixteenth section provides, That, if any person who shall be employed as a cashier, clerk, or servant, in the Bank of the United States, or any of its offices, shall steal or embezzle the money or other effects of the Bank, &c. he shall be punishable by fine, not exceeding five thousand dollars, and by imprisonment and confinement to hard labor, not exceeding ten years, according to the aggravation of the offence.]

The 4th section (which provides for the punishment of murder, rape, and several other crimes, when committed in any arm of the sea, or in any river, haven, creek, basin, or bay, within the admiralty and maritime jurisdiction of the United States,) being under consideration—

Mr. WICKLIFFE moved, as an amendment, to insert the following words: "and not within the jurisdiction of any state or territorial government." He explained and supported the amendment, as intended to prevent collisions between the authority of the general and state Governments. The admiralty jurisdiction of the United States had been claimed and exercised within the state of Kentucky, and, he believed, from the mouth of the Mississippi to St. Louis. He conceived the state governments to be entirely competent to inquire into and punish crimes committed within their own jurisdictions, and that, as there was no necessity, there would be no advantage, in giving the United States concurrent power to do the same.

Mr. WEBSTER replied. He had already stated to the committee that one of the principal objects in framing this bill, had been, to avoid a conflict of territorial jurisdictions between the United States and the several states. But it was the first time he had heard of such an extraordinary thing, as that maritime jurisdiction had been exercised by the courts of the United States from the state of Kentucky; he did not know that any person had dreamed of the application of such a jurisdiction there: and Mr. W. said, he thought that those who had exercised it must have been dreaming themselves at the time they did so. The class of crimes provided for in this section not only might happen, but had actually occurred, without the existence of any law to punish them. Murders had been committed on board our own ships while lying in the harbors of foreign nations, and, for want of such a provision, they had gone unpunished. He knew that the state governments were competent to the punishment of crimes committed, under similar circumstances, in any harbor or river of the United States; but they were usually disinclined to do so, considering the crime as more particularly committed against the United States. There might, besides, occur much difficulty, where the boundaries of different counties surrounded the same bay, in deciding within which of them the fact happened. In bays, &c. which, though part of the sea, were not any part "of the high seas," the common law jurisdiction, and the admiralty jurisdiction, were concurrent; and should the section pass, its only effect would be to pro-

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vide that, if the state did not try the offender, the United States should. As the interest and property more immediately concerned were those of the United States, it was not proper to leave it at the option of any state, whether offences against them should be punished.

Mr. WICKLIFFE replied. He had stated not his opinion, or his apprehensions, but a fact which actually existed. Admiralty jurisdiction had been claimed, and had been exercised within his native state. The jurisdiction had been exercised in Kentucky by a tribunal composed of Judges, who were not in the habit of dreaming on legal subjects, and the question was now pending before the Supreme Court of the United States. The section provides to punish what the states are themselves competent to punish, and in a manner different from that in which some of the states provide to punish it. Admiralty jurisdiction had also been claimed and exercised, Mr. W. said, in the state of Louisiana, and it would be the effect of the section to take the punishment of every boat-man who got into a fray, on board one of the flat-bottomed boats on the Mississippi, into the hands of the United States' Courts, and punish him in a way at variance with the laws of Louisiana. I (said Mr. W.) would give to the states exclusive jurisdiction within their own territories. Or, if the gentleman intends to punish only crimes committed on board vessels of the United States, and would so modify his amendment as to accomplish that object alone, he would agree to it. But the section, as it stands, said Mr. W. is general and indiscriminate. Mr. W. further objected to it as being without warrant from the Constitution. That instrument gives to the General Government no power to prescribe the punishment of crimes, under an admiralty jurisdiction, except such as are committed on the high seas, or are offences against the laws of nations. The crimes here referred to, are not committed on the high seas, nor are they offences against the law of nations. Mr. WEBSTER inquired, whether he was to understand the gentleman from Kentucky as affirming that the Constitution gave to the General Government no other power to punish crimes, except that contained in the clause he had just quoted?

In answer to Mr. WEBSTER's question—

Mr. WICKLIFFE said, he did not see, in the Constitution, any delegated power to define and punish the offences designated in the section under consideration, when committed within the territorial limits of a state, nor did he think it resulted as necessary to carry into effect the powers delegated to the General Government.

After some further consideration, the question was put on Mr. WICKLIFFE'S amendment, and it was negatively, yeas 46, yeas 108.

Mr. ELLIS then moved to amend the section by striking out the words ["or rape."] This crime, he said, was, by the penal codes of most of the states of the Union, punished in a manner different from murder; and, however infamous the former crime might be, he thought there ought to be a gradation in its punishment below that of the latter. There had been in many states of the Union an endeavor at the reformation of the criminal code—in several states this had been effected to a considerable extent, and he believed without the least detriment to public morals or to public security. He regretted to perceive that the legislation of the states was crossed in so many instances by the proposed bill, and that the old exploded system of punishments was so far adopted and revived by it. The bill, he had understood, professed to be an amelioration of the existing laws—but, if it created, as has been said by the gentleman from Kentucky, (Mr. WICKLIFFE,) sixteen new capital offences, it was, instead of an amelioration, rather an aggravation of their severity. It was easy for a legislator to say, that those who broke through the salutary restraints which tend to preserve society, are worthy of death—but, where it was found, on experi-

ment, that penalties of a milder form were equally effectual in the prevention or diminution of crimes, it would not do to insist on such doctrine. A milder system had been tried, and no increase of crimes had occurred beyond the proportion in which population had multiplied—and, while that was the case, he should feel bound in duty to oppose the bill in its present form, at least by his vote, and to protest against all needless multiplication of capital punishments.

Mr. GAZLAY supported the amendment of the gentleman from Pennsylvania, chiefly on this ground, that, if "rape" were placed on an equal footing with murder, where the one was committed the other would generally be committed also, to prevent prosecution.

Mr. WEBSTER replied, that the Committee on the Judiciary did not consider themselves as instructed to re-modify the penal policy of the United States. They had no authority to do so. Should the time come when the Government should see fit to abolish capital punishments entirely, it was competent to do so—but the present bill would be found, upon the whole, to be a mitigation of the laws as they previously stood. He did not know that he should object to the present amendment, inasmuch as it was not probable that the crime referred to would often occur in the circumstances provided for; but, as to the crime itself, he never would consent that it should be punished with any thing less than death.

The amendment was lost.

Mr. WEBSTER then moved to insert a section in the bill, which provides, that, if any offence shall be committed on board of any ship or vessel belonging to any citizen of the United States, while lying in a port or place within the jurisdiction of any foreign state or sovereign, it shall be cognizable by the United States' Court, in the same manner as if committed on the high seas; with a proviso that, if tried abroad, the offender shall not again be tried at home.

To this, Mr. FORSYTH objected, as unnecessary and somewhat dangerous; unnecessary, because the crimes were punishable by foreign Governments; dangerous, because it contained no safeguard against a citizen who had been tried and acquitted by our own courts being afterwards tried and condemned by a foreign jurisdiction.

Mr. A. STEVENSON, of Va. objected to the amendment on constitutional grounds. He denied the power of this Government to carry its territorial jurisdiction within the jurisdiction of another sovereign. The received doctrine of the law of nations was, that the jurisdiction of any sovereignty was commensurate with the boundaries of the country in which it existed, except when, by a fiction, it was supposed to accompany its ambassadors when abroad, its armies when on a march, and its ships of war; but this section applied to private as well as public ships, and he denied that a private vessel could carry the United States' jurisdiction with her wherever she went.

Mr. WEBSTER explained, and again referred to cases where crimes had been committed on board our own vessels, but had gone without punishment, because the vessel was within a foreign jurisdiction. It was a case that might happen every day. Our commerce had spread over all seas; it extended into all the bays and ascended all the rivers of the world. But, as the law now stood, the moment a vessel left the high seas and entered into any creek, haven, or bay, the persons on board were left without law; the crew might rise and murder the master, or commit any other outrage, and there was no law whatever to punish them. As much as two hundred years ago, the necessity of some such provision as that now proposed, had been seen by the Government of England, and, in the reign of Henry 8th, a statute was enacted to punish at home crimes committed on board English ships in foreign harbors. Numerous convictions had taken place under that

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statute, one of the most celebrated of which was the case of Governor Wall, who was tried and hanged in England for a murder he committed at Goree.

It is objected, said he, that we shall usurp jurisdiction where it does not belong to us—but the object of this section is to protect our own property, and punish offences committed against this Government by its own citizens. Suppose an act of treason against the United States were planned or committed without the limits of our own territory, would the United States have no power to punish it? The power to enact the provisions of this section rests on the power granted by the Constitution to protect commerce—it rests on the same ground as the laws punishing certain crimes against the Post Office; many of which are punished by death. Either the entire class of crimes he had mentioned are absolutely unpunishable, or they must be punished by the laws of the United States. As to the danger of a second trial abroad, after the accused has once been tried at home, he thought it to be very small—it was possible—the man *might* go back to the place where he had committed the offence, and he *might* be apprehended and tried by a foreign tribunal—but there is generally little inclination to meddle in such matters, the foreign Government usually considering it as being not their affair. But, if the House saw any danger in the provision, they would, of course, refuse to adopt it.

Mr. FORSYTH insisted on his objections to this provision, and suggested that a provision might be made to try the offender if the foreign Government shall *refuse* to do it—and to prescribe a course of proceeding where no Government existed, as on the coast of Africa, the Marquesas, &c.

Mr. WEBSTER suggested much inconvenience in applying to know whether the foreign Government did refuse. The seat of Government might be 500 or 5,000 miles from where the ship lay—and before application could be made, and an answer obtained, she might be detained there for years, &c.

Mr. LIVINGSTON had no doubt of the power of the Government over its own citizens, in all parts of the world, but he objected to the section, because it made no distinction respecting by whom or upon whom the crimes enumerated, were committed. A theft might, for example, be committed in the midst of the harbor of Liverpool, by some one of the inhabitants, on board an American ship, and, according to the section, the thief must be brought off to the United States to be tried and punished. Its provisions, too, embraced every offence, without distinction—crimes against the local police, &c. which the United States might find great difficulty in deciding upon. He feared some difficulty might arise with foreign Governments, under the operation of such a provision. For, if the United States' Courts have power to punish, they have also power to bring the offender before them, and a man who stole a trifling article, must be brought off from London or Paris to be tried in this country.

Mr. WEBSTER then proposed to restrict the section to murder and manslaughter, and to confine it to offences committed "by or upon any person belonging to the ship's crew, or any passenger on board the vessel." After considerable discussion, the latter alteration was agreed to, but the words "murder and manslaughter" were stricken out, and the words "any offence" were restored.

The 6th section provides to punish running away with the ship or her cargo, by death.

Mr. WEBSTER expressed a willingness to change this punishment, (hitherto always assigned by law to this offence,) for fine and imprisonment, if the committee should judge the latter penalty sufficient.

Mr. BUCHANAN, of Pennsylvania, said he highly approved of the general features of this bill. It was a disgrace to our system of laws, that no provision had

ever been made for the punishment of the crimes which it embraced, when committed in places within the exclusive jurisdiction of the United States. He thought, however, that the penalty of death was too severe to be annexed to the description of crimes contained in the section under consideration.

The power of punishment vested in Government, said Mr. B. results from the right of self-defence. Vengeance belongs not to man. We should, therefore, be careful not to inflict punishments of a nature more severe than the safety of society requires. In all cases where the character of the crime does not involve such a degree of moral depravity in the criminal as to preclude a reasonable hope of his reformation, it would be both unjust and cruel, in the extreme, to deprive him of life. These principles need not be either illustrated or enforced before this committee.

What, then, said Mr. B. is the nature of the crimes embraced by this section? One clause of it declares, that the passenger on board of any vessel who steals and carries away from it goods of the value of 1000 dollars, shall suffer death. Is not this punishment out of all proportion with the crime? Is it necessary for the safety of society that death should be the penalty in such a case? Is it possible that a provision of this nature can, in the present improved state of society, be incorporated in our penal code? He believed not. The other crimes enumerated in the section, although more aggravated than the one just mentioned, are chiefly offences against the right of property; and a distinction has generally been made between such crimes and those which are *malum in se*, or highly criminal by the laws of nature.

What, said Mr. B. is the consequence of annexing cruel punishment to crimes? The people of the United States are humane and compassionate, and when the feelings of society are in opposition to the laws, you cannot carry them into execution. The humanity of juries is interposed between the criminal and punishment. The highest crimes thus often pass unpunished; and the chance of escape is in proportion to the enormity of the offence. Even after conviction and judgment, we know by experience how difficult it is to get the sentence of the law executed. It is the interest of society, therefore, that, in the degree of punishment, justice should be tempered with mercy.

Mr. B. observed, he had been a member of the committee which reported the bill. He might have moved this amendment in the committee, but had neglected to do so. He trusted that the honorable Chairman, (Mr. WEBSTER,) to whom we were so much indebted for the bill, would not object to it.

Mr. B. then moved to strike out, at the end of the section now under consideration, the words—"be deemed guilty of piracy and felony, and shall, on conviction thereof, suffer death," and insert, in lieu thereof, the words, "be punishable by fine, not exceeding \$5,000, and by imprisonment not exceeding ten years."

The question on this motion being taken, without debate, was decided in the affirmative.

Before the committee proceeded to the next section of the bill, Mr. P. P. BARBOUR expressed a desire for further time to reflect upon its various and important provisions, and, with the view to obtain it, moved that the committee rise, which motion prevailed. The committee rose accordingly, and obtained leave to sit again.

IN SENATE.—MONDAY, JAN. 10, 1825.

Mr. BARBOUR, from the Committee on Foreign Relations, to whom the several petitions on the subject of Piracies were referred, made the following Report; which was ordered to be printed:

"That our commerce, for years, has been harassed,

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and the lives of our citizens destroyed, by pirates issuing from the colonies of Spain, in the West Indies, is a fact derived not only from the message of the President, but is of universal notoriety. These outrages have been so long and so often repeated, and marked with such atrocious circumstances, that a detail of the particular cases would be as impracticable as unnecessary. Our Government, with a view to protect our citizens, has resorted to the means within their power, by stationing a naval force near the places where the pirates resort; a measure also, pursued by other powers. Every effort, heretofore, has been unavailing, to put an end to these atrocities. These desperadoes, acquiring confidence from impunity, becoming more ferocious from habit, and multiplying by recruits from the most abandoned of other nations, threaten the most disastrous mischiefs, justly alarming to that highly valuable and most respectable portion of our fellow citizens whose pursuits are on the high seas. It is manifest, as well from facts derived from other sources, as from the message of the President, that the continuance of this evil is ascribable to the asylum afforded the banditti in the colonies of Spain. The Government of the United States, cherishing the most amicable disposition towards Spain, has presented the subject with great earnestness to the Spanish Government, demanding reparation for the past, and security for the future. To these reiterated remonstrances, no answer was returned till very recently, and to this day, all that has been obtained is a *promise* of a satisfactory answer to the applications of the Government of the United States: although Spain has been solemnly warned, that, if she did not promptly acquit herself of her obligations to us on this subject, our Government would be constrained, from the nature of the outrages, to become its own avenger, and, availing itself of its own resources, protect the commerce and lives of the American citizens from destruction. In the same spirit of conciliation, an appeal has been made to the local authorities, accompanied with a request, that if, from weakness, they were unable to exterminate the hordes of banditti who took shelter from pursuit within their territories, that permission might be given our forces to pursue them on land. This has been denied, on the vain punctilio of national dignity. The posture in which Spain now stands is that of connivance in these injuries, or incapacity to prevent them. "A sovereign who refuses to cause reparation to be made of the damage caused by his subject, or to punish the guilty, or, in short, to deliver him up, renders himself an accomplice in the injury, and becomes responsible for it." If the committee were of opinion that the refusal, on the part of Spain, was wilful, and not the result of inability, they would, with a full view of all the consequences which the measure involves, at once recommend an appeal to the last resort of nations, against Spain, and all her dependencies. But, believing, as they do, that courtesy requires that her refusal to do us justice should be placed on the ground of inability—an inability resulting from causes which the committee intentionally forbear to enumerate, they content themselves with recommending only such measures as are believed to be indispensable effectually to reach the mischief. And hence, they beg leave to present a bill with suitable provisions for the end designed."

Accompanying the report, Mr. B. reported the following bill:

"A Bill for the Suppression of Piracy in the West Indies.

"*Be it enacted*, &c. That, for the more effectual suppression of piracies in the West Indies, the President of the United States be, and he is hereby, authorized to cause to be built, in addition to the present naval force of the United States, a number of sloops of war, not exceeding ten, to carry not less than twenty guns each, of such description and weight of metal as the President may direct, and that the sum of — thousand dollars be,

and the same is hereby, appropriated for the aforesaid purpose, out of any money in the Treasury, not otherwise appropriated.

Sec. 2. *And be it further enacted*, That the commanders and crews of the armed vessels of the United States shall be, and they are hereby, authorized, under such instructions as may be given them by the President of the United States, in the fresh pursuit of pirates on the Island of Cuba, or any other of the Islands of Spain, in the West Indies, to land, whenever it may be necessary to secure the capture of the said pirates, and there to subdue, vanquish, and capture them, to deliver them up to the authority of the Island where captured, or to bring them to the United States for trial and adjudication; as the said instructions of the President of the United States may prescribe.

Sec. 3. *And be it further enacted*, That, if any of the said pirates should escape from the fresh pursuit of the commanding officers and crews of any armed vessel of the United States, and find refuge in any of the cities or ports of the said Island of Cuba, or other Island aforesaid, the President of the United States, on being informed of the fact, in a manner satisfactory to him of its authenticity, shall be, and he is hereby, authorized, at his discretion, to declare the said port or city to be in a state of blockade, and shall cause the same to be invested by the naval force of the United States till the said pirates shall have been secured and punished by the authorities of the said Island, or until satisfaction shall otherwise have been made, whereupon he shall deem it just and expedient to discontinue the said blockade.

Sec. 4. *And be it further enacted*, That the commanders and crews of any armed merchant vessel of the United States be, and they are hereby, authorized to recapture any vessel and cargo taken by pirates upon the coast of the Island of Cuba, or the other Islands aforesaid, or on the adjoining seas; and such vessel so re-captured, being brought into any judicial district of the United States, shall be adjudged to be restored by any Court of the United States having admiralty jurisdiction therein, to the former owner or owners of the same, he or they paying for salvage not less than one-eighth, nor more than one half of the true value of the said vessel and cargo, at the discretion of the Court, for the benefit of the recaptors, and in such proportions as the Court shall direct, which payments of salvage shall be made without any deduction whatsoever.

Sec. 5. *And be it further enacted*, That, whenever the commanders and crew of any merchant vessel of the United States shall subdue and capture any piratical vessel or boat from which any assault, or other hostility, shall be first made or attempted, such piratical vessel or boat, with her tackle, appurtenances, ammunition, and lading, (excepting such part as may have been piratically taken, which shall be restored to its owners, subject to salvage as aforesaid,) shall accrue, the one fourth to the owner or owners of such merchant vessel of the United States, and the other three-fourths to the captors; and, being brought into any port of the United States, shall and may be adjudged and condemned to their use after due process and trial in any Court of the United States having admiralty jurisdiction, and which shall be holden for the district into which such captured vessel shall be brought: and the same Court shall thereupon order a sale and distribution thereof, accordingly, and at their discretion, saving any agreement which shall be between the owner or owners and the commander and crew of such merchant vessel.

Sec. 6. *And be it further enacted*, That, after notice of this act at the several Custom Houses, no armed merchant vessel of the United States shall receive a clearance, or permit, or shall be suffered to depart therefrom, unless the owner or owners, and master or commander, of such vessel for the intended voyage, shall give bond, to the use of the United States, in a sum equal to double

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*Suppression of Piracy.—Imprisonment for Debt.*

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the value of such vessel, with condition that such vessel shall not make or commit any depredation, outrage, unlawful assault, or unprovoked violence upon the high seas, against the vessel of any nation in amity with the United States; and that the guns, arms, and ammunition of such vessel shall be returned within the United States, or otherwise accounted for, and shall not be sold or disposed of in any foreign port or place; and that such owner or owners, and the commander and crew of such merchant vessel shall, in all things, observe and perform such further instructions in the premises as the President of the United States shall establish and order for the better Government of the armed merchant vessels of the United States.

Sec. 7. *And be it further enacted*, That the President of the United States shall be, and he is hereby, authorized to establish and order suitable instructions to and for the armed merchant vessels of the United States, for the better governing and restraining of them, and to prevent any outrage, cruelty, or injury, which they might be liable to commit; a copy of which instructions shall be delivered by the Collectors of the Customs to the commander of such vessel, when he shall give bond as aforesaid. And it shall be the duty of the owner or owners, and commander and crew, for the time being, of such armed merchant vessel of the United States, at each return to any port thereof, to make report, upon oath, to the Collector of said port, of any encounter which shall have happened with any piratical vessel, and of the state of the company and crew of any vessel which they shall have subdued, captured, or retaken. And the persons of such crew or company, chargeable with any act or acts of piracy, or piratical depredation, shall be delivered to the Marshal of the same district, for trial, before the court of the United States having competent jurisdiction.

Sec. 8. *And be it further enacted*, That five per centum on the nett amount (after deducting all charges and expenditures,) of the prize-money arising from captured vessels or boats, and of their tackle, appurtenances, ammunition and lading; and of the nett amount of the salvage on any vessels and cargoes recaptured by the armed merchant vessels of the United States, shall be secured and paid over to the Collector of the Customs at the port or place in the United States at which such captured or recaptured vessels may arrive, to be by said Collectors paid over to the Treasury, as other public money; and the same shall be held, and is hereby pledged, as a fund for the support of the widows and orphans of such persons as may be slain, and for the support and maintenance of such persons as may be wounded and disabled on board the armed merchant vessels aforesaid, in any encounter or engagement with any piratical vessel or crew, to be assigned and distributed as hereinafter provided.

Sec. 9. *And be it further enacted*, That the Secretary of the Navy be authorized and required to place on the pension list, under like regulations and restrictions as are used in relation to the Navy of the United States, any master, other officer, or seaman, or other person, employed on board the armed merchant vessels of the United States, who shall have been wounded or otherwise disabled in any engagement with pirates, allowing to the master or commander a sum not exceeding — dollars per month; to mates not exceeding — dollars each, per month; and to seamen and other persons employed as aforesaid the sum of — dollars per month for the highest rate of disability, and so in proportion; which several pensions shall be paid, by direction of the Secretary of the Navy, out of the fund above provided, and no other.

Sec. 10. *And be it further enacted*, That if any master, mate, or other officer, seaman, or other person, employed or serving on board any armed merchant vessel as aforesaid, shall die by reason of a wound received in the line of his duty, in any encounter, pursuit, or engage-

ment, as aforesaid, leaving a widow, or if no widow, a child or children under sixteen years of age, such widow, or if no widow, such child or children, shall be placed on the pension list by the Secretary of the Navy, who shall allow, out of the fund aforesaid, and no other, to such widow, child, or children, half the monthly pension to which the rank or station of the deceased would have entitled him for the highest rate of disability under this act: which allowance shall continue for the term of five years. But, in case of the death or intermarriage of such widow before the expiration of five years, the half pay for the remainder of the term shall go to the child or children of the deceased: *Provided*, That the half-pay shall cease on the death of such child or children, or on their arriving to the age of sixteen years.

Sec. 11. *And be it further enacted*, That all from the second to the seventh sections of this act, inclusive, shall continue and be in force for the term of one year, and until the end of the next session of Congress thereafter."

The bill was twice read, and, on motion of Mr. BARBOUR, made the order of the day for Thursday next.

A message was received from the President of the United States, (the same as that received in the other House on Friday,) respecting his accounts with, and disbursements for, the government.

Mr. HAYNE moved that it be referred to a select committee.

Mr. SMITH said, that this request of the President was with a view to collect all the information necessary to be acted on hereafter. He supposed that a committee would be appointed in the other House, and, as it was not to be acted on during the present session, he suggested the propriety of laying it on the table, to be taken up for disposition at a future day.

Mr. KELLY thought that, if a joint committee of the two Houses were arranged, it would be more fitting the subject; each House organizing a committee on the subject would be merely obstructing each other.

Mr. HAYNE said, that it was a parliamentary rule that one House could not know what the other was acting on, and that each House should act for itself, except in matters of great national importance, when they might invite a joint committee. Yet, he had no objection to the latter course. His object was in substance a joint committee—it was to investigate facts, to ascertain what was doing in the other House, and present the facts to this House. This object would be attained by referring the message to a select committee of this House, and they would not be acting superfluously in collecting and arranging the facts. If the gentleman from Alabama (Mr. KELLY) wished for a joint committee, let it be so; but he thought that the Senate ought to act for itself—it was a peculiar case which would require great attention, and the facts elicited would be very important.

Mr. BARBOUR observed, that a subject of this kind was one which would require mature consideration, before it could be acted on. It was obvious, that, at present, some difference of opinion existed, which, at a future period, would, probably, not be the case. He, therefore, to give time for reflection, moved that the message lay on the table, to be taken up hereafter.

This motion was agreed to.

The bill for abolishing imprisonment for debt was read a third time.

Mr. NOBLE observed, that, when the bill was brought forward a few days ago, he moved that it should be printed to enable the Senate to examine the various amendments made to it. He observed then, that one very important feature of the bill was that which required two oaths to be taken before the defendant could be held to bail. When the question was taken on one oath "that he or they have reason to believe that the said defendant or defendants intend to remove from the state or territory, or intend to leave the United States," the vote was equally divided; some gentlemen might say,



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that in consequence of this equal division, it was decided in the affirmative; but, I might say it was decided in the negative. The Senate said Mr. N. is now full; one member of the committee who reported the bill is now present. The gentlemen may now see the importance of the bill, and may not be willing to vote for it as it now stands. I should prefer that it be recommitted with instructions, or that it should be recommitted to the same committee generally. I have drawn up a proposition which, in substance, amounts to this: that the bill be recommitted to the committee with instructions to amend the bill by striking out the words, "and shall further make oath or affirmation that he or they have reason to believe, that the said defendant or defendants intend to remove from the state or territory, or intend to leave the United States." If this should be objected to, he would move, without any instructions at all, that it be referred to the Committee on the Judiciary.

Mr. JOHNSON, of Ky. said that the Senate must be impatient at the tedious process of the investigation of this subject. The merits of the question had been exposed in two or three previous sessions. With respect to the details of the bill, no committee had ever bestowed more attention on any subject, than had been bestowed on this, by the select committee to whom it was referred. The honorable gentleman from Indiana, (Mr. NORTON,) wished to recommit the bill, and strike out a part which vitally affected its principle. If the majority were against the adoption of the measure, then let it be rejected. If the gentleman could point out any thing objectionable in the phraseology, which needed amendment, he saw no objection to it. It was needless to enter into the history of this measure. It had been three years before the Senate, and five before the House of Representatives, in relation to its principles and details. When it was before the Senate on a former occasion, the part to which the honorable gentleman objected, was attempted to be struck out. The friends of the measure, said Mr. J. have stated, that the principles of the bill are involved in that section. I should be better pleased that the bill should be finally thrown out, than its principles should be destroyed in this indirect manner. Nothing will be gained by procrastinating the measure; and I hope the recommitment will not take place, either with or without instructions. As it would then stand, those who contend for the principles of the bill would vote against it; for those principles would be utterly destroyed. He was very sorry, after the opportunities that had been so repeatedly afforded for the commitment and recommitment of the bill, and the conceding disposition he had evinced, that it should still be objected to. He hoped that the final decision would take place, but not by procrastinating it in this way. He had nothing more at stake than any other member, but wished finally to dispose of it.

Mr. NOBLE replied, that he had no wish to procrastinate the decision. In its present shape he was entirely opposed to the bill. He had seen enough in the Western Country of stop laws, occupying claimant laws, &c. to satisfy him that it was necessary to have some Court in which the suitor should not be shackled. By this bill, said Mr. N., it is required that a man should take an oath, first, as to the amount of the debt, and afterwards take another that the party is about to leave the state or the United States. Now, he might conscientiously take an oath as to the existence of the debt and its amount; but I ask if a man in one state was to bring an action against one in another state, could he easily swear that his debtor was about to leave the limits of the state? Barriers are thrown in the way to prevent an honest creditor collecting an honest debt. He moved to commit the bill without any instructions.

The question was then taken on the commitment of the bill, and carried—Ayes 23—Noes 21.

## HOUSE OF REPRESENTATIVES.—SAME DAY.

Mr. TAYLOR, of New York, offered the following resolution:

"Resolved, That the Committee on the Judiciary be instructed to examine and report to this House whether any, and, if any, what, further legislative provision is necessary for the impartial administration of justice in the territorial governments of the United States."

In offering this resolution, Mr. T. said, it had become his duty to call the attention of the House to this subject, in consequence of certain communications he had received from one of the Territories, requiring, in his judgment, the attention of Congress. In most of the territories inferior courts of law have been established by their local legislatures. The judges of these courts are appointed for a limited period, *unless sooner removed by the Executive authority*. In the absence of the Governor, the Secretary of the Territory exercises all the powers and prerogatives of that officer. Generally, he is a member of the bar and a practitioner in the territorial courts. The Governors are frequently absent from their territories many months in succession. In such case, it has happened, and, unless prohibited by law, may again happen, that one of the Attorneys on record, in a cause depending in court, appoints the judges to try the cause, holds over them the power of removal at pleasure, and exerts a controlling influence in fixing their compensations. The danger of this power, so unfriendly to the impartial administration of justice, becomes more apparent when we consider the influence the acting Governor is capable of exerting over the jurors.—Those, being freeholders, generally compose the class of citizens which furnish most of the candidates for the offices of Sheriff, Justice, Coroner, and for office in the Militia. In addition, then, to his influence with the court, arising from the facts above mentioned, it has often happened that a portion of the jurors impanelled and sworn to try the cause, have stood in relation to one of the Attorneys in the attitude of humble suppliants for office.

These statements, said Mr. T., are not made in reference to any particular case of injustice which may have arisen, but the facts upon which they are founded are derived from very respectable authority, and are entitled to consideration.

The remoteness of the territories from the seat of the General Government, the imperfect responsibility of officers there to the people, the difficulty of detecting and punishing abuses which may exist, unite in demanding of Congress the removal, so far as may be practicable, of all temptation to injustice or oppression. The particular danger to which he had alluded, Mr. T. said, might be remedied by a law prohibiting the person exercising the office of Governor from practising as Attorney, Counsellor, or Solicitor, in the Courts of the Territory over which he may preside.

This prohibition, it was believed, would furnish ground for no such complaint on the part of the officer whom it might affect. The Secretary of a Territory enjoys a salary from the United States of \$1000 a year. Our District Judges, with salaries, many of which are not greater, and for considerations certainly not more important to the public, have been prohibited engaging, before other and independent judges, in the practice of law. At any rate, said Mr. T., the subject is worthy the attention of the appropriate committee.

The resolution was agreed to.

The following message was received from the President of the United States, by Mr. EVERETT:

To the House of Representatives:

I should hasten to communicate to you the documents called for by a resolution of the House of Representatives, of the 4th instant, relating to the conduct of the officers of the Navy of the United States, on the Pacific

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Ocean, and of the public agents in South America, if such a communication might now be made, consistently with the public interest, or with justice to the parties concerned. In consequence of several charges which have been alleged against Com. Stewart, touching his conduct, while commanding the squadron of the United States, on that sea, it has been deemed proper to suspend him from duty, and to subject him to trial on those charges. It appearing, also, that some of those charges have been communicated to the Department by Mr. Prevost, political agent, at this time, of the United States at Peru, and, heretofore, at Buenos Ayres and Chili, and apparently with his sanction, and that charges have likewise been made against him, by citizens of the United States engaged in commerce in that quarter, it has been thought equally just and proper that he should attend here, as well to furnish the evidence in his possession, applicable to the charges exhibited against Commodore Stewart, as to answer such as have been exhibited against himself. In this stage, the publication of these documents might tend to excite prejudices which might operate to the injury of both. It is important that the public servants, in every station, should perform their duties with fidelity according to the injunctions of the law, and the order of the Executive in the fulfilment thereof. It is peculiarly so that this should be done by the commanders of our squadrons, especially on distant seas, and by political agents, who represent the United States with foreign powers, and for reasons that are obvious in both instances. It is due to their right, and to the character of the Government, that they be not censured without just cause, which cannot be ascertained until, on a view of the charges, they are heard in their defence, and after a thorough and impartial investigation of their conduct. Under these circumstances, it is thought that a communication, at this time, of these documents, would not comport with the public interest, nor with what is due to the parties concerned.

JAMES MONROE.

*Washington, January 10, 1825.*

The message was read, and ordered to lie on the table.

## PENAL LAWS OF THE UNITED STATES.

The House then, on motion of Mr. WEBSTER, went into committee of the whole, Mr. CONDIOT in the chair, on the bill further to provide for the punishment of crimes against the United States.

Mr. P. P. BARBOUR rose for the purpose of suggesting to the honorable chairman of the Committee on the Judiciary, the propriety of a modification of the bill now before the committee—a modification which had respect to the principle of the bill, and which, if adopted, would run through several of its parts. He highly approved of much that the bill contained, and thought that many of the offences it contemplated were worthy of punishment; but the object he wished to attain, in the modification he now suggested, was, that the federal courts should have cognizance of all cases where punishment was necessary, and where the state courts have no jurisdiction; but that, where the state courts have jurisdiction, there none should be given to the United States. He was fully aware that the subject was one attended with much and great difficulty. If we looked at the legislative department of the Government, we find that the constitution gives it power to define and punish piracies and felonies, committed on the high seas, and offences against the laws of nations: if we look to the judicial department, we find the constitution giving it jurisdiction over all cases of admiralty and maritime jurisdiction. Confining our attention only to the legislative power of the Government, it would seem to be at once limited to “the high seas;” but, if we go on to the judicial, we find it under the words “admiralty and ma-

ritime jurisdiction.” terms, the precise import of which there is much difficulty in settling. The question arises, how far does this admiralty jurisdiction extend? The difficulty of marking this line with precision, none knew better than the gentleman from Massachusetts himself, who took a very distinguished part in a celebrated case lately argued before the Supreme Court of the United States, and which turned mainly on that question. In another case, where the same question came up, Judge Story devoted seventy-five pages to the discussion of it. It is the opinion of some, and this distinguished jurist is one of the number, that maritime jurisdiction extends over “the high seas,” and over the sea as it extends into bays, harbors, rivers, and creeks, and as far as it ebbs and flows. Others say that the common law jurisdiction extends only to the enclosed parts of the sea. If the first of these opinions is the correct one, then, according to the provisions of the present bill, the jurisdiction of the federal courts will spread over all the bays, harbors, and rivers, of the Union, as far as the tide flows. Mr. B. observed that he should not himself undertake to define the precise extent of this so often discussed jurisdiction; but, as the point had been a matter of controversy long before the date of our constitution, it might be argued, with some plausibility, that the clause in the constitution which speaks of piracies and felonies “on the high seas,” had been intended to settle the question. It was a controversy which had called forth a vast amount of talent and intelligence; but without pretending to settle it, he conceived that every necessary purpose would be subserved if the bill shall make provision for the punishment of crimes committed without and beyond the jurisdiction of the several states. Now, it was the received doctrine, that every state has jurisdiction as far as its own territorial limits extend; and these limits clearly include all the bays, waters, creeks, &c. which are within the state. The gentleman must well recollect the case where this was settled before the Supreme Court, in relation to the state of Massachusetts. His wish was to avoid all colliding jurisdictions; and, therefore, it was, that he wished the bill modified in the manner he had stated. And he now suggested, with that view, that the bill should be made to read as applying to offences committed “on the high seas, and beyond the territorial jurisdiction of any of the states;” or any other phraseology which would attain the same object. He believed the language in the former law was “out of the jurisdiction of any particular state.” He trusted that the honorable member from Massachusetts would not object to such a modification.

Mr. WEBSTER rose in reply: he said that the member from Virginia had stated with great fairness the difficulty which attended this subject; and if he apprehended, with that honorable member, that any disagreeable collision could take place between the federal and state authorities, from the passage of the bill as it stands, he might be perhaps induced to modify it as proposed. He was well aware that the leading law heretofore existing on this subject, provided for the punishment of crimes committed “on the high seas, or in any bay, harbor, basin, creek, or river, out of the jurisdiction of any particular state;” but he had expressly stated, when he introduced the present bill, that its object was to carry that act farther, and he would now assign some of the reasons which led him to desire it. The power to punish was one for which no government new days was much disposed to contend; and the offences committed within the federal jurisdiction were, in most cases, directed against the United States, or against those interests which the Government was especially bound to protect. The jurisdiction of the United States was found chiefly where commerce existed, and commerce was an interest which the United States were peculiarly bound to protect—it is an interest regulated by the United States—its revenue is given to the United States;

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*Crimes against the United States.*

[JAN. 10, 1825.]

and the bill proposes to give the federal courts jurisdiction over crimes only where they now have jurisdiction over commerce. The crimes most mischievous were crimes against the property of the Government. Now the question was, whether the General Government shall devolve the whole burden (for it was a burden and not a privilege) of punishing crimes against itself, on the state governments, because committed within their bounds. In taking this task into their own hands, the Government will only be acting on the principle which has governed it from its origin—offences against those rights which are peculiarly committed to its protection it has always punished in its own courts, such as counterfeiting the national coin, forging the national securities, &c. There was nothing to prevent the state government from punishing these offences as well as others within their limits; yet the federal government has never left it to them. The great objection against leaving the task of punishing to the state governments is the burden of expense: no state government, so far as his knowledge extended, was ever very anxious to take this burden—none were very ambitious of extending their jurisdiction in this respect. He would now state, so far as his understanding of it went, how the power of punishing these crimes came to the General Government. In defining the power of Congress, the Constitution says, it shall extend to the defining and punishing of piracies and felonies upon the high seas and offences against the law of nations. Whether the Constitution uses the term “high seas,” in its strictly technical sense, or in a sense more enlarged, is not material. The Constitution throughout, in distributing legislative power, has reference to its judicial exercise, and so, in distributing judicial power, has respect to the legislative. Congress may provide by law, for the punishment; but it cannot punish. Now it says that the judicial power shall extend to all cases of maritime jurisdiction; and it has lately been argued that, as soon as a judicial system is organized, it had maritime jurisdiction at once, by the Constitution, without any law to that effect—but I do not agree to this doctrine—and I am very sure that such has not been the practice of our Government from its origin in 1789 till now. The Constitution defines what shall be the objects of judicial power, and it establishes only a Supreme Court—but in the subordinate Courts the jurisdiction they shall exercise must be defined by Congress; the defining of it is essential to the creation of those Courts. The Judicial power is indeed *granted* by the Constitution, but it is not, and cannot be *exercised* till Congress establishes the Courts by which it is to be so exercised. And I hold there is still a residuum of judicial power, which has been granted by the Constitution, and is not yet exercised, viz: for the punishment of crimes committed within the admiralty jurisdiction of the United States’ Courts, and yet not without the jurisdiction of the particular states. So the Constitution says that the Federal Courts shall have jurisdiction of all civil cases between citizens of different states, and yet the law restricts this jurisdiction in many respects—as to the amount sued for, &c. There is a mass of power entrusted to Congress; but Congress has not granted it all to specific courts, and therefore the Courts do not exercise it. The Constitution gives to Congress Legislative power in all cases of admiralty jurisdiction, from whence has occurred one of the most extraordinary of all circumstances that causes of revenue have become cases of admiralty jurisdiction. The cause of this seems to be, that, under the colonies, these causes were tried by a Judge of the Crown; in England they are not held to be cases of admiralty jurisdiction; but are tried by Juries in the Court of Exchequer. The act of 1790 gives to the District Court of the United States original cognizance of all cases of admiralty jurisdiction, including cases of seizure; hence that very state of things has happened, against which, when we were colonies, we

were petitioning the mother country for a hundred years, (which seems to show that the real grievance was not the trial of those causes without a jury, but by a judge appointed abroad and without our consent.) Mr. W. said that, notwithstanding the objection urged against the bill, it would be found that the law now existing has provided for the jurisdiction the bill proposes—that is, for the punishment of crimes committed within the maritime jurisdiction of the United States, and at the same time within the jurisdiction of the States. The act of 1790, if it had stopped at the words “high seas,” would, indeed, have excluded such a jurisdiction as that now proposed—but it does not stop there: it says, also, “and in all bays, harbors, creeks,” &c. Many things are directed to be punished in the act of 1790, on the high seas, which are neither piracies nor felonies, although the Constitution, speaking of the judicial power, restricts it to piracies and felonies, which would infer that the Constitution was then held to grant larger power by the other clause. Several other laws, besides that of 1790, give express authority for the extent of jurisdiction in this bill. Mr. W. here adverted to the act of May, 1820, in which it is decided that admiralty jurisdiction extends as far as the tide ebbs and flows. Mr. W. concluded his remarks, (of which our Reporter professes to have given but an imperfect outline, in which he does not expect to have attained the complete accuracy desirable in a view of legal discussions,) by remarking that, if he perceived any danger of the collision which some gentlemen seemed to apprehend, he should be the last to urge any bill that would produce it. We might, indeed, get along without the measure now proposed—we might continue to limp and halt as we have hitherto limped and halted—many murders would go unpunished, and much United States’ property would be left without any protection from the United States. If we went into any harbor of the country, we should see less of the state authority than was proposed to be left untouched by this bill. The commerce there is all regulated by United States’ laws—the masters, the mariners, the pilots, are all under regulations of the United States—and he thought that the crimes committed there would also be most properly punished by the United States, if its jurisdiction may lawfully be extended to them.

Mr. BARBOUR observed, that the difficulty he had first stated, still remained, which was, the local extent of maritime jurisdiction. He knew that there was a distinction between the civil and criminal jurisdiction in this respect. In the former, the question of locality did not come up for inquiry; but in the latter, it was material. The question of its limits had called forth illustrious talents, but was still undetermined. Where is it to be limited? To the high seas? If not, to “the sea”? If so, is it the “open sea,” or is it also in harbors, and does it ascend rivers with “the ebbing and flowing of the tide”? This, said Mr. B. is the difficulty. I wish to avoid it by limiting the bill to places without the state jurisdictions. He did not think it was a fair presumption that the State Governments would neglect their duty. The proper and natural presumption was, that they would do it on the water as much as on the land. He would, however, make, at present, no distinct motion. Indeed, no one motion would accomplish his object. He would only present to the honorable chairman of the Judiciary Committee the suggestion, which, if adopted, would require a number of distinct amendments to the bill.

Mr. WEBSTER observed that it would be best in the meanwhile to proceed with the details of the bill.

The remaining sections were accordingly read in succession. Mr. WEBSTER explained the particular objects of several of them, and suggested several slight amendments, which were adopted—when the committee rose, and reported the bill as amended.

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*Drawback on Cordage.—President's Accounts.*

[Sen. &amp; H. of R.]

Mr. VANCE, of Ohio, (by leave obtained,) offered the following, [which was adopted on the following day.]

*Resolved,* That the Secretary of the Treasury be requested to furnish this House, with a statement showing what portion of the money paid in virtue of the act of 9th of April, 1816, and the subsequent acts amendatory thereof, and what moneys have been paid under the 9th section of the act of April 1816, and of that portion, what part was paid to the claimants on the Niagara frontier, and also designating on what claims the residue of the said money has been paid.

## IN SENATE—THURSDAY, JANUARY 11, 1825.

The Senate resumed, as in committee of the whole, the bill for allowing a drawback on the exportation of cordage manufactured from foreign hemp in the United States.

Mr. RUGGLES explained the object of the bill, which was simply to allow persons to import raw hemp into the United States to manufacture it into cordage, and in exporting it again to receive a drawback. There was a considerable demand for cordage in South America, but this country was unable at present to compete with Great Britain, where no more duty was paid on the exportation of the manufactured article than was paid on the raw material. If this bill were passed, it would be a great encouragement to many persons who were ready to enter into the business of rope making, and would likewise encourage the growth of Flax in this country, by creating an increased demand for the article; and the bill effectually guarded against any fraud on the revenue.

Mr. D'WOLF observed, that, in the formation of this Government, care had been taken to prevent Congress laying any tax on exports; it was certainly clear that this bill ought to pass, for the obvious reason that the present law, exacting a duty on the raw material, operated as a direct tax on the exportation of the articles made from it. This branch of industry began with the settlement of this country; and the people who were engaged in it were masters of their business, and were able to compete with any nation, if they could go into the market on an equality with them. If this measure were adopted, many of the gross manufactured articles of the United States could compete with those of other countries in the South American market; but he had selected the article hemp, because he thought it would strike both Houses of Congress more forcibly than any other he could name. This country would receive very little benefit from the South American market being thrown open, if it had to buy every thing of them and sell nothing; it was the interchange of the products of national industry that rendered commerce valuable, and it was this that every nation was looking to. In this business of making cordage, a large capital is already invested—the manufacturers wish to carry this produce to a foreign market, and will do so if you will remove the shackles that restrain them. The Constitution intended that every branch of industry should be brought to market on fair grounds and free from embarrassment—and what was asked in this bill was no more than justice.

After some verbal amendments, which were discussed by Messrs. LLOYD, of Mass. D'WOLF, HOLMES, of Maine, and SMITH, the bill was, on motion of Mr. DICKERSON, postponed, and made the order of the day for to-morrow.

## HOUSE OF REPRESENTATIVES—SAME DAY.

Mr. CROWNINSHIELD, from the Committee on Naval Affairs, reported a bill, "providing additional means for the suppression of piracy;" which was twice read and committed to a Committee of the Whole on the state of the Union.

After the first reading of the bill, Mr. FORSYTH rose, and made a statement exculpating the Committee of Foreign Relations from any charge of neglect or delay on this subject. The moment the committee met, he said, application was made at the Department of State for the papers in relation to it, but none had yet been received.

Reciprocal explanations were further made by Messrs. CROWNINSHIELD and FULLER, the substance of which went to remove any idea of the Committees on Naval Affairs and of Foreign Relations, entertaining the least intention to interfere with each other's duties, or cast any imputation upon each other.

## ACCOUNTS OF THE PRESIDENT OF THE U. S.

Mr. INGHAM moved to refer the Message of the President of the United States, received on Thursday last, to a Select Committee.

Mr. BARTLETT said, that, among the considerations which are stated, in the Message, to have induced the President of the United States to call the attention of Congress to this subject, one was, that the proposed investigation would operate as a salutary precedent for the future. Now, Mr. B. said, the Message referred to matters of different kinds: a part of it referred to the private claims of the President upon the Government, and a part of it to his official transactions. The Message asks that the accounts of the President shall be treated and investigated in the same manner as the claims or accounts of any other individual. To comply with the invitation of the Message, in this respect, and to give full effect to the precedent to be established in this case, Mr. B. moved to refer so much of the Message as refers to the private claims or accounts of the President, to the Committee of Claims, and if this motion succeeded, would move to refer so much of it as relates to the disbursements, by the President, of Public Moneys, to such other standing committee of the House, as might properly have cognizance of the matter. The reason for this course was, that the Committee of Claims, besides being a diligent committee, versed in such matters, had also established rules of decision in regard to the principles of claims, &c. which it could readily apply in this case. Such a disposition of the Message, also, would obviate the imputation which, whether justly or unjustly, often attends the reports of select committees, of partiality in their reports, &c. by reason of which a report from a select committee on this subject would be much less effective, in regard to future legislation, than if it had been made by a standing committee. He hoped, therefore, the same course would be taken in the present case as though it were the case of an individual.

Mr. INGHAM assigned some reasons why he had proposed to refer the President's Message to a Select Committee. Since the Message had been laid on the table, he had abstained from renewing the motion for reference; and he had not learned, in the interval, from any gentleman, that any other disposition of the Message than that was desired. The Message, Mr. I. said, was of a compound character: it involved considerations of a very delicate nature, which had been the principal inducements to the President to transmit it to Congress. With regard to whatever accounts the investigation of the subject might involve, it would be extremely difficult to separate them. Hence he had moved the reference to a select committee. If, however, it should appear to that committee, on examination, that the accounts furnished a proper subject of investigation for the Committee of Claims, if of a private nature, or for the Committee of Foreign Relations, if for services abroad, they could so report, &c. Mr. I. said he had himself no personal knowledge on this subject, nor any special anxiety. He thought it proper, however, that the Message should be respectfully disposed of.

Mr. BRENT, of Lou. suggested, as a reason why the

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Message should not go to the Committee of Claims, that it would be out of the power of that committee, from the pressure of business already before it, to act upon the Message during the present session, and it was the very object of the President, as therein expressed, that whatever investigation took place should take place during the present session, that his situation might enable him to facilitate the inquiry.

Mr. MERCER, of Va. said, that there was no member of the House who felt greater confidence in the Committee of Claims than he did, or entertained a higher opinion of the unwearied assiduity, talents, and integrity, of the chairman of the committee, whom he might emphatically denominate his friend, and for whom he had ever cherished sentiments of the highest respect—yet he must object to giving the present document that direction—for, in the first place, it was not certain that any thing was due to the President. For aught that appeared, the result of the inquiry might shew that the President was, on the contrary, indebted to the Government. If a select committee is appointed, it will be their duty to report what is the true state of the fact. This is all that the message asks for. The President asks for no bill—he expressly says that he will sign no bill in his own favor—and he presumes that none, intended to bring him in debt to the nation, will be presented to him for his signature, (though he did not doubt for a moment, that, should such a bill be presented to him from this House, he would sign it without hesitation.) Should the select committee discover that part of the expenses, to which the message alludes, had been incurred by the President while in his diplomatic character, that part of the accounts might afterwards go to the Committee on Foreign Affairs. If the supposed claim was found to touch the Executive expenditures, there was a standing committee to which that part of it might go. But he thought that a select committee was most proper, because they would devote their attention exclusively to the object, and would be enabled to report a statement of facts during the present session, and while the President was still in Washington. It would certainly not be treating that venerable person with the respect to which his years and long services entitled him, to drag him from his retirement, after he shall have left his high station, and compel him to come to Washington to attend to a settlement of accounts; and, besides, it might then be viewed by him as indelicate to apply for allowances after his time of service shall have expired. It could not be doubted that the claims of the President were, in his own view of them, founded in justice, and the investigation he had asked for was honorable to him, and ought not to be refused.

Mr. McLANE, of Delaware, then rose, and observed, that it did not appear to him to be very material to what committee the document was referred, if the House determine to consider the subject now at all. But, before he voted, he should like to have some information as to the nature of the difficulties to which the message seems to allude. He was perfectly ready to aid in any investigation which was requested, so far as his situation in the House might give him any facilities in so doing; but, as a private member, he wished to know what is the nature of the accounts alluded to. Are they accounts which have been settled? If they are not settled, why, then there is the most imperative obligation that they should be settled as soon as possible; but, if they have been settled, and there is no balance against the President, he did not clearly perceive what was the object he had in view. He hoped the gentleman from Pennsylvania, (Mr. INGHAM,) would consent to let the paper lie upon the table for the present, until some farther information could be obtained to guide the House as to the proper course to be taken. For one, he professed himself to be in utter ignorance on the subject.

Mr. MCCOY, of Virginia, hoped the message would

not be sent to the Committee of Claims—which was already sufficiently burthened with business. It was not in the contemplation of the President, it was evident, that any thing definitive should be done the present session in relation to the subject of his message. The investigation of it would obviously be a business of considerable labor, as it appeared that private as well as public accounts were to be investigated, and these running back for many years. The Committee of Claims was, of all other standing committees of this House, least able to undertake an investigation of this nature and extent—and he concurred with the gentleman from Delaware, (Mr. McLANE,) in a wish that the Message might lie on the table till the House were better advised what to do with it.

Mr. BARTLETT again rose, to express a hope that he had not been misunderstood in the remarks he had made when first up. As his motion had been to refer so much only of the message as relates to the private and personal claims of Mr. MONROE, to the Committee of Claims, if it should appear that there were no claims of this kind referred to by the Message, then his motion would have no effect; but if there were any such claims, then it would go to refer them to a committee, the special object of which was claims of such a description. He wished to say one word in reply to the gentleman from Louisiana, (Mr. BREW,) who objected to sending it to the Committee of Claims, because that committee had already so much business that it could not attend to this during the present session. Mr. B. said, he would only observe, that, if this were a valid objection, it was equally valid against sending any other claim, whatever to that committee from now to the end of the session. But, for himself, such was his confidence in the diligence as well as the ability and fidelity of that committee, that with him this objection had little weight. He denied having any other object than to aid the views expressed by the President in setting a precedent which might be the most proper and most salutary. He attached no suspicion whatever to any select committee of this House to which the subject might be referred—but he thought it was most fit in itself that an individual personal claim, though that of a citizen in the highest office of the State, should go where other claims went of the same kind.

Mr. LIVERMORE, of N. H. objected to any division of the subjects of the Message as inconvenient. There was a strong precedent for the appointment of a select committee, to examine the accounts of the President, in the case of the accounts of the Vice President, which were thus examined. It was indeed true, that his accounts had first been presented at the Treasury: but they had ultimately been submitted to a select committee of this House. He admitted the general principle, that all who ask justice at our hands, should stand alike—but it does not therefore follow, that the same rule of business should be applied to all cases. It was also true, that there were standing committees of the House, to which all business of a particular kind was ordinarily referred; and yet it was a frequent practice to send business of the same kind to a select committee. He hoped a select committee would be appointed, and that the whole matter would be entrusted to them for investigation.

Mr. HAMILTON, of S. C., said, that he thought that it was not an unimportant portion of the inquiry before the House, in reference to the direction which it was proper to give the message of the President, to ascertain what had been its usual practice, in similar cases; and, whilst he cordially subscribed to the republican doctrine of the gentleman from New Hampshire, that the chief magistrate of this nation was entitled to no higher privileges of justice than the humblest man in our country, he would undertake to say, that, in the present instance, it was merely attempted to give to this



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officer the same measure of justice and comity which was usually accorded to a private claimant under similar circumstances. Without going over an infinity of private claims, in which their merits had been investigated and discussed by select committees, he would allude to two cases at the last session, because they were familiar to the memory of all who heard him. These were the accounts of the Vice President, Mr. Tompkins, and the claims of Major Piatt—cases which would be recollected, as they had challenged a large portion of the interest and sympathy of the House. Nor was it necessary to advert to the reference made to a select committee during the present session, for the purpose of considering the services and sacrifices of a distinguished individual, except it might be for the mere purpose of indulging in the delightful gratification which had been felt among ourselves, and by the country at large, at the manner in which that committee had so nobly discharged their duty.

Mr. H. said, that it was a sound rule of practice in that House, to refer claims of a miscellaneous character to select committees; and, in the present instance, what did the President ask of us? That all his pecuniary transactions with the Government, spread over a useful life of upwards of forty years public service, should be investigated, and even upon the strictest principles, if he should be found a debtor, that he might discharge the consequent obligation, and have the evening of his life undisturbed even by the breath of suspicion. That the President was not a mere volunteer in this matter would be obvious, when it was recollected, at the last session, that something had been intimated that at least a portion of his pecuniary transactions, with an agent of the Public, required explanation.

The gentleman from Delaware had asked what this committee was to investigate, as no specific claims had been stated? Mr. H. said, that he did not pretend to know, from any source of authority, what were the precise extent, nature, and character of the claims in question; but if he had even less information than he really had on the subject, he would at least be disposed to do the Executive the justice to believe, that, when he sent a message founded on their alleged existence, that they not only existed, but were entitled to the respect and attention of this House. He had, however, no objection to state, that he had casually learnt that the claims in question were, for services rendered by the President in a diplomatic character abroad, and expenditures incurred in such services; and that, whilst the claims of other persons had been admitted, precisely of the same character, the adjustment of his own had been injuriously withheld, immediately after his return from Europe. The cause of the delay in their settlement, prior to his coming to the Department of State, during the period of his retirement in Virginia, those who knew him could easily solve, by his habitual disregard for money, and from the easy generosity which characterized his efforts in relation to all gains that were personal to himself.

But really, Mr. H. said, he presumed that the object of every gentleman was the same, a precise ascertainment of the facts connected with these claims, and with the accounts of the President generally, whilst this individual was at the seat of Government, and would have it in his power to furnish both testimony and explanation. The President did not ask, but had expressly repudiated the idea of any decision on the justice of the claims during the term of his office. All he wished of you was, that, when evidence could be collected without inconvenience, that you should take the proper means of collating it. Indeed, he had all along, even when Secretary of State, or whilst in public office, refrained from pressing a settlement, from a scrupulous delicacy, that was worthy of the highest commendation. The simple question then is, ought these claims to be refer-

red to the Committee of Claims, constantly and oppressively burdened with a superabundance of business, or ought they not rather to be sent to a Committee raised specially for the purpose, who could have time to investigate them fully, notwithstanding their possibly miscellaneous character, and report the facts for an ulterior and future decision of this House, when the distinguished individual to whom they relate, should be beyond the exercise of power and patronage? This was all that he asked, and as little as we could well accord to him.

Mr. H. said, in concluding, he had but one remark to make in reply to the observations of the gentleman from New Hampshire, "that select committees were usually partial." He thought this observation was practically obviated by the power which the Speaker had, at least in this case, to make his selection of the committee from the whole House, without the smallest limitation whatsoever, except as to number. The judicious exercise of the power, by the person who now fills the chair, was guaranteed by the intelligence, firmness, and independence, which uniformly characterized his conduct.

He, therefore, hoped that the gentlemen who had opposed it would perceive the reasonableness of making the reference to a select committee, and not to the Committee of Claims, both on the grounds of precedent, right, and expediency, and would afford to their venerable Chief Magistrate the same privilege and facilities which had been yielded to others.

Mr. COCKE, of Tennessee, observed, that it had not been his intention to say a single word on this subject; but it would be recollected that, at the last session, the gentleman from South Carolina had thrown out some insinuations with regard to himself, when some accounts of the President had been alluded to, and great exceptions were taken to the idea of having those accounts investigated. He should not now pursue the same course as to the insinuations referred to. He had, in his hands, evidence in respect to these transactions, which he would not offer to the House, intending to make a different use of it, which any gentleman was free to examine, and which he believed would remove every erroneous impression in regard to himself, from the mind of every one who did so. As for the subject now before the House, he, for his own part, cared very little to what committee the papers should be sent. The accounts of the Vice President had been referred, he believed, not to a select committee, but to the Committee of Ways and Means—but he might be mistaken.

Mr. HAMILTON said he would state, for the information of the House, that he had himself been a member of the Select Committee to whom the accounts of the Vice President were referred. They had, indeed, afterwards gone to the Committee of Ways and Means, but it was merely for a financial purpose.

Mr. A. STEVENSON, of Va. begged to make a single suggestion to the House, as to the destination which this subject ought to take. There were but two inquiries, in his opinion, which it was necessary to make: Was there sufficient information *now* before the House, to enable it to act? and, if so, ought it to be referred; and to what committee? It was to these points the attention of the House ought to be directed. Mr. S. said, he did not concur in the opinion which he had understood his friend from Delaware (Mr. M'LANE) to express, that the information now in their possession was insufficient to authorize the reference of the subject to the consideration of a committee. He believed the message would be found to contain, upon this point, all that could be required. In it, the President tells us, that he has had control over the public moneys, to a vast amount—that he has "long been in the public service, abroad and at home," and that there are matters of account and claims between himself and his country, which are unsettled, and ought to be adjusted. That the cause of the delay, in presenting these claims, shall be explained to the

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committee to whom the subject may be referred. Here then is distinct information, as to the fact of *unsettled accounts* between this officer and the Government: which not only authorize but require us to act. What other information can be required, at this stage of the business? Mr. S. thought none. But to what committee ought the subject to go? There was, Mr. STEVENSON said, no standing committee of the House, whose duties would embrace the whole subject. These claims might not have arisen in the same character. Those which relate to his diplomatic character, would belong, appropriately, to the Committee on Foreign Relations—those in his individual character, to the Committee of Claims, and those as President of the United States, to a Select Committee. Was it expedient or proper to cut up the subject and refer it to *three* distinct committees, when the whole can be acted upon by *one*? Mr. S. said, he thought not; and should, therefore, prefer the latter course. Let the whole subject be referred to an intelligent select committee—let the facts be reported, and we shall then be fully competent to apply the rules and principles which ought to govern us in the adjustment of claims against the Government. The President will then stand upon the same ground with every other citizen, who comes here for relief. This had been asked by the President as a matter of sheer justice and right. He had long been in the public service, and was anxious that the evening of his life should be peaceful and undisturbed. So far, Mr. S. said, as this inquiry would be the means of accomplishing this object, it should have his support. He should, therefore, vote for the original proposition of the gentleman from Pennsylvania, (Mr. INGHAM.)

Mr. M'LANE, again rose. All that he wished, he said, was information as to the *nature* of the claims alluded to in the message of the President. He should, he said, cheerfully afford to the President of the United States any inquiry he might wish, through a committee of this House, whether for the settlement of his accounts, or to resist any aspersion, founded or unfounded, on his character. His objection to acting on this subject, was to the indefiniteness of the nature of the claim which had been presented to the House. If, said he, this is a mere matter of account—if the object be only to adjust and settle existing accounts between the United States and the President, it is not a subject within our province. If it be a matter of claim, founded on injustice done to him in the settlement of his accounts, in which the officers of Government have been governed by strict and rigorous construction of law, but in regard to which, there are equitable considerations, which place it fairly before us, then is it properly presented here, and ought to be deliberately examined, &c. Under such circumstances, it would stand on the same footing with other cases which had been referred to as precedents. Mr. M'LANE said, he did not believe, that a case had ever arisen, in which an individual had come to this House to settle his accounts, where no legal obstacle stood in the way of their settlement. If, in the settlement of his public accounts, a balance had been found against Mr. Monroe; or, if items of his account against the Government had been rejected, Mr. M'LANE granted, that it would have been a fair subject to justify the interposition of this House, and he would be willing to give it that direction. If the message really involved a variety of accounts between the Government and Mr. Monroe, then it ought to go to a select committee, for in that case, Mr. M'LANE agreed with the gentleman from Virginia, that the very diversity of those accounts furnished a strong reason why a select committee, embracing the powers of all the committees of the House, should be appointed to take it into consideration. He should like to know, he said, what these accounts were. No balance had been reported against the President, and he was very well satisfied that none could be. But, if

he had accounts not yet settled, Mr. M'L. submitted that the proper course would be, for a settlement of these accounts of the President to take place. If there were any items of his accounts with the Government which could not be settled under existing laws, but which had equity for their support, it would be time enough, when that fact was ascertained, for Congress to undertake to adjust them. Whilst up, Mr. M'LANE said, he would take occasion to express his regret, that this distinguished individual, had thought it necessary for his reputation—it was certainly not necessary for his reputation—or for his interest, to take the course he had done in this matter.

Mr. BUCHANAN, of Pennsylvania, said, that, as to himself, he would rather the President had exhibited his claim before the House in a precise and distinct form, and demanded its payment. He did not conceive it necessary for the character of that distinguished individual, that he should request a general investigation of his pecuniary transactions with the Government. But, said he, that was a proper subject for the exercise of his own discretion; and he has determined otherwise. What, then, is it right, we should do?

A well tried, and a faithful public servant, who, for eight years, has occupied the most distinguished station in this country, thinks it necessary for his reputation, to ask of you a general investigation into all his pecuniary transactions with the Government. He considers that his character in this particular has been unjustly assailed; and, about to retire from office, he wishes it to be placed beyond suspicion before the world. For this purpose he has requested of us to inquire into his public conduct, so far as it regards his accounts with the Government. Can we, upon any just principle, refuse this request? Certainly not. He has a right to demand it.

By what committee, then, shall this investigation be made? Gentlemen who think the subject properly belongs to the committee of claims, have, in my opinion, said Mr. B., taken a view of it much too narrow. It is certain that the message of the President asserts the existence of a claim against the government; and if this were all which it contained, it would be a proper subject of reference to the Committee of Claims. But, it is equally certain, it proceeds much further. It asks an investigation of his pecuniary transactions, as a public servant, during the long series of years to which he has been in the employment of the nation. To divide the message and refer a portion of it to one standing committee, and a portion to another, as has been suggested, would separate into parts a subject which is, in its nature, entire. Mr. B. therefore, preferred its reference to a select committee which would possess powers sufficient to grasp the whole subject.

Again, said Mr. B., the message seems to have been misunderstood by gentlemen, in regard to another particular. You are not asked to legislate upon it. No money is, at this time, demanded from you. The President would not make such a request, whilst he stands in his present relation to this House. All he asks is, that a committee shall investigate and report to the House the testimony which he may exhibit, together with his own personal explanations. After his term of office shall have expired, he does not wish to leave his retirement for the purpose of attending to this investigation. The message expressly disclaims any view to legislation during the present session: it only asks that such preliminary inquiries may be made as will render his personal attendance hereafter unnecessary. Said Mr. B. business of this peculiar nature certainly does not properly belong to any standing committee of this House. After the testimony shall have been reported, it may be proper, at the next session of Congress, to refer a part of it to one of the standing committees, and a part to another.

Mr. B. concluded by observing, that it would be both

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unjust and unkind to refuse to the President the appointment of a select committee upon the subject.

Mr. TRIMBLE, of Kentucky, said, he thought that light enough had been thrown upon the subject to enable the House to vote a reference to some committee, standing or select; and it did not appear to him that any further discussion would be useful. There must, of course, be some delicate considerations involved in any matter of account brought up for settlement on the part of the Chief Magistrate. Some members propose to treat it as a claim made by a private citizen—and nothing could be more correct, as a general rule—but that did not establish the propriety of referring the case to any of the standing committees. How would it be if a claim was set up against the President for moneys due the Treasury? Would an inquiry moved against him be sent to a standing committee? Certainly not. And why should his demand against the Treasury be treated otherwise than it would be, if it were a demand by the Treasury upon him. Perhaps it was just to say that something in the shape of courtesy was due to the person who claims this inquiry into his accounts. He ought at least to have the facilities of other citizens, and heretofore it had been usual to refer miscellaneous claims of this description to select committees. Standing committees were established by the rules of the House, for convenience, and the despatch of business, but, after 40 years of public service, a request to raise a select committee, and refer the accounts to it, was but a small favor, and probably not more than was due to the House, and the nation, and the claimant, and the station which he fills. The name of the committee would not change the responsibility of the members placed upon it, and there could be no doubt that any select committee would do full justice to the claimant and the nation.

Mr. MERCER again rose, and said, that the President having deferred an exposition of the nature of his claims until the appointment of a committee on the subject, it seemed to be due to him, on the part of those who might be in possession of any information on the subject, to withhold it. But, after what had been said, he might be excused both by the House and the President, for referring to facts which came to his knowledge twelve or fourteen years ago, long before Mr. MONROE became President, the statement of which might serve to remove the only objection which had been seriously urged to an investigation of the subject of the message. Mr. M. here gave a brief statement of the rendition, by Mr. MONROE, of his accounts for settlement, after his return from his diplomatic service in Europe—of the settlement of them being deferred, &c. You very well know, said Mr. M. (addressing the chair, then temporarily occupied by Mr. P. P. BARBOUR,) how unwilling the state which we represent has been at all times to present any claims of hers to this House—how sensitive every individual Representative of that State on this floor has been in preventing the presentation of the claim of that commonwealth for interest on money advanced by her for the use of the United States during the late war, and that for five or six years it has been kept back, from that consideration alone. The very same motive must have influenced Mr. MONROE in refraining from presenting to the then President, an inhabitant of his own state, a disputed account for settlement. I know, said Mr. M. that this consideration alone prevented him from doing it.—Some time afterwards, Mr. Mercer said, in a list of persons reported to Congress as indebted to the government, had appeared the name of James Monroe, as indebted some \$80,000. In a wretched state of health, he had immediately mounted his horse and come hither from his residence in Albemarle county. He presented his vouchers, and his accounts were settled, and a balance found due to him, although a large amount of his account against the United States yet remained suspended. That, Mr. M. hoped, would be considered a suffi-

cient reason for a reference of this subject to a committee, which, from the miscellaneous character of the accounts of the President, ought to be a select committee. What other course, Mr. M. asked, would gentlemen have the President to pursue? Would they have him present himself before an Auditor of his own appointment, and present a claim for settlement? What character would the settlement of such a claim wear to this House? Would not such a course be indiscreet in the President, in reference to his own character? That course, it must be admitted, he could not have taken; and, if not, this was the only other left open to him.

Mr. FARRELLY said, he hoped the message would go to a select committee. Such a reference would only be complying with the wishes of the President as expressed in it, (here Mr. F. quoted the message, and commented on its several clauses.) It was manifest that the subject, if not referred to a select committee, must go to various standing committees of the House, each of which might report a bill. Thus, there might be half a dozen bills before the House at once, and as many different reports. The gentleman from Delaware, (Mr. M'LANE,) wishes to know the nature of claims, and what they are founded on, before he refers them to any committee; but, Mr. F. said, the President purposely avoided this, and said that he would disclose the nature of the claims to the committee, when it was appointed. The President also expressly desired that whatever was done, might be done before the session was closed, and he had stated a good reason why he had called on this House, as the only proper and competent tribunal, to pass upon his integrity in the pecuniary trusts which the nation has committed to him. Mr. Monroe had received the highest trust upon earth; and in relinquishing it, he demanded an investigation of his conduct. Shall we not gratify him, said Mr. F.? Is it not an honorable request?—Surely, and the proper respect due to it, is the appointment of a select committee to make the investigation.

Mr. INGHAM rose for the purpose of satisfying the gentleman from Delaware. He was able, from inquiry, to assure that gentleman, that no balance existed on the books of the Treasury against the President. It could not be expected, from his situation, as having brought forward the present motion, that he should press for the appointment of a select committee.\* He would, however, make one remark on what the gentleman from New Hampshire (Mr. BARTLETT) had said, in relation to improper bias operating on select committees. The remark must either have relation to the honorable Speaker, (whose duty it would be to appoint the committee,) or to himself. But the Speaker could not be alluded to; his conduct, in the discharge of the duties of the chair, was notoriously such as to forbid such a thought: it must then be himself, to whom the gentleman alluded. But, Mr. I. said, he would assure that gentleman, that he was as independent, in the discharge of his duties, as a Representative of this floor, as the gentleman himself; and he thought it was too much, for any one member of the House to assume the guardianship of the independence of all the other members. For one, he could not suffer the exercise of such guardianship, as respected himself.

Mr. REYNOLDS observed, that the gentleman from Pennsylvania, (Mr. BUCHANAN,) had told the House much about the faithful services of the President for forty years, &c. All this, Mr. R. said, was well enough known. But the question was, whether there was any thing on the face of this document which required the appointment of any committee at all? Is this House, asked Mr. R. constantly to be interrupted for every quib that may be thrown, in the House or out of it, at the conduct of the President? He believed, for his own part,

\* By custom of the House, the person moving such a Committee, is, himself, usually put at the head of it.—[EDITORS.]

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that that distinguished individual stood just as high, this day, in the opinion of his fellow citizens, as if there had never a squib been thrown at him at all. If the President would come, and, in plain language tell the House he had a claim against the government, he, for one, would vote for an examination of it—but he really had been unable, with all the lights derived from the document before the House, to discover what the President really wants, unless from the expression that he will never sign a bill in his own favor. This was all that there was in the message which shewed that he had any claim at all. He could assure his friend from Kentucky, (Mr. TRIMBLE,) that he had himself no wish to be one of the compurgators of the President. He believed, for his part, that the whole message had been occasioned by some remarks which had been dropped in this House last session—but, as to himself, those remarks passed over him like an April shower, which leaves no trace or effect behind it. He did not believe a word of them.

Mr. BARTLETT rose, with a desire to remove from the mind of the gentleman from Pennsylvania, (Mr. INGHAM,) an impression which he had incorrectly taken up, that his former remarks had a personal allusion—he disclaimed every thing like it—he had had not the least reference, either to the distinguished officer who presides over the House, or to the gentleman from Pennsylvania; nor did he entertain a shadow of suspicion as to the independence and integrity of any special committee of this House. What he had said, in relation to favoritism, respected only such a prepossession in favor of the justice of a claim as inclined a person to look with rather more favor on evidence in its support than on that of an opposite nature—and he wished to avoid all imputation of even such a favoritism in the present case, for the purpose of rendering the precedent to be established in this case, more perfect.

Mr. FORSYTH said that the President was entitled to justice from the government. As to the manner how it shall be awarded to him, that was the concern of this House. As to the present claim, this House, Mr. F. said, will never pass upon it while he holds his present exalted station. Mr. F. professed himself in favor of the appointment of a select committee upon the message, but was desirous to limit its powers—and with that view, if the message were to be referred to a select committee, he should move the following instructions:

“With instructions to receive from the President any evidences or explanations of his claims which he may think proper to present, and to file the same in the office of the Clerk of this House, to be acted upon at the next session of Congress.”

The question was first taken on referring the Message to the Committee of Claims, and decided in the *negative*, by a large majority.

The question then recurring on Mr. INGHAM'S motion to refer it to a select committee, and the question being upon agreeing to the instructions moved by Mr. FORSYTH—

Mr. LIVINGSTON said, that the purport of the message seemed to be misunderstood by many gentlemen for whom he had the highest respect, and by whose opinions, on other occasions, he had sometimes formed his own. By some it had been considered a demand for an unliquidated pecuniary claim; by others it was treated as if it were an unjustifiable attempt to use the influence of high official station, in order to command the attention of the House, and obtain a favorable settlement of doubtful accounts; while other gentlemen professed a total want of ability to discover the object.

There is something, said Mr. L. not only so just, but so peculiarly delicate and touching, as well in the matter of this application as in its manner, connected with the period at which it is made, that it made a lively impression on my feelings, and forces me to express some astonishment and concern at the manner in which it has

been treated. Considered as a common application to the justice of the country, it had yet been animadverted upon with more strictness than any common application had before received. Yet it was no common address, whether the person, the occasion, or the object, were considered.

It came from a man venerable for his years, respected for his services, now filling, and having long filled, with honor to his country, the first office in it; it came from the President of the United States, addressed to the Representatives of the people he had served. His object was to obtain an investigation of suggestions which had been made, not in the public papers, but on the floor of that House; and the application was made at a moment selected by the most scrupulous delicacy, when his retirement from his high station precluded the most distant idea of official influence. Can it be said that this is a common application, and should be treated with no more attention than the claim for the settlement of a disputed account? The Presidential office was a co-ordinate branch of the Government, equal in importance, if not in power, with this House. The official character of the functionary who filled it, (the *individual*, as he had been called in debate,) was a public concern, and he had a right, and the public had an interest, to have that character cleared from all shadow of suspicion that might have been thrown on it. It was just, too, that that investigation should now be made; before it, would have been liable to ungenerous suspicions of official influence: at any future period, it would have the effect of dragging him from his honorable retirement, and subverting that repose which his services had earned and his age required.

For my own part, said Mr. L. I consider that my dignity, as a Representative of the People, is not injured by giving a more respectful attention to such an application than I would to that of an ordinary applicant: both are entitled to justice; but there is a courtesy due from one branch of the Government to the suggestions of another, the practice of which will neither interfere with the duty nor the dignity of the House. After all, sir, what is proposed? A reference to a select committee, required by the complex nature of the investigation, and granted on many such mere questionable occasions to individual applications. Is this asking too much? Is it much to ask that a few days of the time of a few members should be employed in procuring evidence to determine whether the Chief Magistrate of the Union, in the exercise of his high office, had managed with fidelity the pecuniary concerns that were confided to him? Is it much to ask that, after he has retired from office, he may be prepared with materials for silencing any aspersions that may be cast upon his character? So far from thinking this unreasonable, Mr. L. said, he should think it a useful practice at the end of every Presidency to institute a similar inquiry, which might detect mismanagement, or silence calumny. He would, therefore, vote for the reference to a select committee, as the most respectful, the most efficient, and most prompt mode of disposing of the message.

Mr. HAMILTON, of South Carolina, expressed a hope that those gentlemen who were in favor of a select committee, would also vote for the instructions moved by the gentleman from Georgia, as they went, in his opinion, to attain precisely the object desired by the President.

Mr. LIVERMORE, of New Hampshire, rose and said, that he was opposed to the instructions. As he understood them, they amounted to this, that the committee was to hear what the President had to communicate, and report it to this House, and there was to be an end of the business. This, he thought, would be far short of what the President asked. He wished a settlement of his accounts. What inconvenience could result from leaving the committee free and unshackled? The thing had been done again and again, as well at this session

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as at every other. He cited the instance of the Beaumarchais claim, that of Vice President Tompkins, and the recent case of Gen. Lafayette. Why should not the same course be pursued in the present case? He was for hanging no clogs about the committee.

Mr. MERCER, of Virginia, entertained the same sentiments with the honorable member from New Hampshire. He could not think it was proper to embarrass the committee with the instructions proposed by the gentleman from Georgia.

Mr. MANGUM, of North Carolina, then rose, and expressed a hope that every remark which he might feel it his duty to make, would be taken as they were meant, in a spirit of perfect veneration for the distinguished individual from whom this message came. Though he had no design to be deficient in respect, it might happen, from his ignorance of etiquette, that he would appear so. Yet he must say, that, to him, this appeared to be one of the strangest applications that ever was made to Congress. It might be considered as presumption in him to say any thing in relation to its delicacy. The President was certainly the best judge of what was delicate, in his own case. But he should say, consulting his own judgment, that an application like this was indelicate; and he hoped he should not be held deficient in respect, when he said that he could not feel sorry should this claim not be treated in a manner different from common claims. What, asked Mr. M., is the object to be accomplished by the proposed investigation? Is it to repel calumny? He had been in the habit of considering the character of that individual as too high for the breath of slander to reach it. Mr. M. asked whether it was consistent with the dignity of this House to undertake the defence of a public officer, however indignant they might feel at charges falsely preferred against him? Was it consistent with their duty as Legislators, to constitute themselves into what the gentleman from Tennessee (Mr. REXFOLDS) had very properly called a body of Compurgators? Was this House to be erected into a tribunal for the trial of questions of honor? He hoped not. It was with pleasure he believed that this investigation was utterly unnecessary to repel aspersions, or ward off attacks upon the Chief Magistrate. His long life, spent in the service of his country, spoke for itself. And though his character, like the sun, might not be without spots, Mr. M. said it was not his office to point them out, unless his duty compelled him. He thought that the appointment of this committee would not merely be descending far beneath the duty of the members of this House, as Legislators, but would be doing so, as a gratuitous act, when circumstances did not call for it. If the President's demand was a mere matter of claim, what sincerity was there in the boast which we heard from Maine to Louisiana, about equal rights, if one question of mere, naked, abstract right, was to be preferred to another? In questions of that kind, he said he knew no difference between the President of the United States and the humblest cottager—both had the same claim on the justice of this House, and he would let the claims of both take the same direction. If there was any difference, the claim of the President, from his higher standing, should undergo the stricter scrutiny. For himself, Mr. M. believed that the claims, in the present case, would be investigated with equal justice by one as by another committee. The President, in his message, had said that he would not sign any bill in his own favor. We are told, said Mr. M. that there is no balance against him. The balance, then, must be the other way, and we are to take inceptive measures, which are to be carried to maturity at a future session. Mr. M. said he thought it would be more proper that further light should be given upon this subject, than to call on the House to act upon it in its present state of uncertainty. And, under this impression, he moved to lay the message on the table.

The question being taken on this motion, it was lost, 41 members only rising in its favor.

Mr. ELLIS, of Pa. called for a second reading of the instructions proposed by Mr. FORSYTH, and they were read accordingly.

Mr. ELLIS then observed that he must dissent, and felt bound to oppose instructing the committee in this manner. He thought it would be confining the duties of the committee to too narrow limits. Their duty would be little more than a clerkship—a new agency to receive testimony. The President was already amply able to communicate to this House, through the Speaker, any papers he wished to lay before it; and, if the committee was appointed with the instructions proposed it would come to little more. Mr. E. said he felt a real pleasure in meeting the President in the most respectful manner he could, and he would submit his claims, whatever they might be, to a select committee. He could confide in the integrity, ability, and general knowledge of business, of the members of this House, and he hoped that no instructions would be given to the committee. Let us meet the President, said he, with an expression of warm and kind feelings.

Mr. HAMILTON then moved an amendment to the instructions, to the following effect: "That the committee report the explanation and evidence submitted by the President to the House during the session." Mr. H. said he thought that such instructions would be perfectly conformable with the wishes of the Executive. He agreed with the gentleman from Georgia in the opinion that no investigation should take place which might, by the remotest possibility, be supposed to be conducted under Presidential influence; yet he did not think it would be respectful, either to the President or this House, that the committee should file the evidence he might lay before them in the Clerk's office. Such a direction was like the instructions given to a Master in Chancery to take evidence. Let the committee present the case submitted to them in the form of a report to this House.

Mr. FORSYTH hoped that the amendment of the gentleman from South Carolina would not be adopted. It would, in effect, be the same as giving no instructions at all, and would leave the matter just where it was. It was obvious that the President felt the delicacy which applied to the case. He feels, said Mr. F. that this House will never pass a bill, either on an old or a new account, so long as he remains President of the United States. Whence does this feeling arise? From his relative situation to this House and its members. He is the source of patronage and power. He cannot indeed punish members of this House if they refuse to pass a bill; but he can reward them if they do pass it. He feels the delicacy of his relation to this House, and shall we not feel it too? No, sir; he is not a mere common claimant; and while I would give him every facility to lay the evidence of his claims before this House, I would do nothing more. We are as liable to the imputation of being under his influence in presenting a favorable report of the facts of his case, as we would be in granting money to satisfy his claim. Gentlemen only want an explanation of his claim, and the evidence to support it. Then why seek such a form of investigation as may bring an imputation on our own purity? The President feels this, and we ought to feel it. He asks, first, that the purity of his own conduct, while in office, respecting the disbursement of moneys, may be publicly ascertained. This referred merely to the receipt of his own salary, and to the disbursement of a very small fund placed under his control for contingent expenses, &c. There was no indelicacy in such an investigation; he has a perfect right to demand it; and it is an investigation which may not be refused in the face of this nation. But, in the second place, the President asks that, while he remains here, he may have an opportunity to show and to explain the



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evidence respecting certain accounts which relate to other matters. If he does not do this while he remains in office, he must come back from his retirement to attend to it. I wish, said Mr. F. to save this venerable man from such a task; but, while he is in office, I will never consent to say that there is a large or a small sum due to him. I would never vote for an appropriation during his continuance in office, even if I were satisfied the sum was due. This House has nothing to do with the President in money matters, except to appropriate for his salary. Sir, it would be a most extraordinary spectacle to see this House occupied in settling the President's accounts with the Government. If we are to treat him as we do other claimants, we must send him to the accounting officers; and when his accounts come from them to us, we must, if we act upon them whilst he is yet in office, examine them with peculiar severity. I wish, therefore, to postpone acting on this matter, further than receiving the explanation and evidences of the claim of the President, till we can do it without a violation of delicacy.

Mr. WARFIELD, of Maryland, said he rose with reluctance, being persuaded he could not present any views on this subject with as much strength as had already been done by other gentlemen; but he must express his decided opposition to any instructions to the committee. The President urges no definitive claim; but asks a liquidation of accounts, and clearly intimates that a claim will then arise. Why oppose the appointment of a select committee? Was this a novel instance? Had not such committees been appointed in other cases? Mr. W. then referred to the claim of General St. Clair, which had gone to a select committee; but which, according to the doctrine of some gentlemen, ought, it seems, to have gone to the Committee of Claims. What was the object of the application in this case? An appropriation by this Congress? No; and the independence of gentlemen would not be in the least compromised. If rewards are to operate on the decisions of this House, might not their operation have been with still greater reason urged in the case of the Vice President? He might, by a contingency, become acting President of the Union, and, by election, become the next President. He did not doubt that, if a select committee were appointed, it would be composed of men of integrity, and be taken from the most distinguished members of the House. In such a committee he felt no fear in confiding.

Mr. FORSYTH then modified his motion for instructions, by striking out the clause which directs the committee to file the evidence they might receive in the office of the Clerk, and substituting a direction to report it to the House.

Mr. HAMILTON, conceiving the instructions, thus modified, as being identically the same as he proposed to make them by the amendment he had offered, withdrew the amendment, that the House might not be asked to vote upon two identical propositions.

Mr. M'DUFFIE rose to state the ground on which he was opposed equally to the amendment now before the House, and to that which had been proposed and withdrawn by his colleague. He objected to them, because, to agree to either of them, would be to appoint a committee to investigate the state of facts in regard to a certain matter, and refuse to them the power to make such a report as an investigation of those facts would authorize them to make. The President, in a message to this House, desires an investigation into facts concerning himself: his message is referred to a committee, whose duty it becomes to consider it, and the usual and obvious course, is, to leave to that committee the mode of investigating it, &c. If the House is so sensitive on this subject, or so under the control of the Executive that it cannot trust a select committee to make a report of facts in regard to this matter, we may as

well, said Mr. M'Duffie, throw up our commissions, and retire from this Hall. I hope no measure will be adopted which will cast such a reflection on this House.

Mr. FORSYTH said, he certainly meant no reflection upon the House, or upon the committee to whom the subject might be referred. But, he said, the Constitution of the United States believes the members of this House to be liable to corruption, and not only them, but every officer of the Government, from the highest to the lowest. It believes that the President of the United States might be capable of bribery of the lowest species—that he might be capable of such offences, that, upon conviction of them, by the tribunal to which he is amenable, he might be hung by the neck like a sheep-stealing dog. We, the Representatives of the People, said he, are called upon to act between the President of the United States and the People. I, for one, will not place myself in a situation in which imputations of corrupt motives may be thrown on my character. Even in the case of the President of the United States, however high his station, however sacred his person in the eyes of some of the community, I will not do it. I will not do it for any living man. As to the suggestions of delicacy to the President, said Mr. F.—something is due to ourselves. He has consulted his committee for seven years, at least: let us consult ours for a few weeks. By referring this message, even with the proposed instructions, you do for the President what you would not do for any other individual. If we were to treat his case as we do those of other individuals, what should we say? We should say, where are the evidences in support of your claims? Let them be presented, and they shall be referred to the Committee of Claims, and severely scrutinized. The President, however, wants no such thing as this. He knows better the delicacy of his situation. He tells you, that you cannot with propriety award him money. The same objection applies with equal force to an assertion of facts as to a vote of money, by the House. In either case, a judgment is to be formed of them by the members of the committee which has the subject under consideration. The judgment of an individual, in such a case, may be operated upon by corruption, direct or indirect, &c. Far be it from me, said he, to insinuate that such a thing is probable, or even possible, in reference to the members of any committee of this House. But the Constitution of the United States supposes such a thing to be possible, if not probable: and, Mr. F. said, so far as he was concerned, he was determined that no such imputation should apply to him.

Mr. INGHAM said, he had understood the gentleman from Georgia, as saying, that he meant not to impute to the members of this House the possibility of the operation of any corrupt or improper motive in regard to the investigation of the subject now before the House: and yet the whole course of his observations went to shew the possibility, if not probability, of such an influence. Mr. I. said he should be glad to understand what the gentleman really intended by his observations.

Mr. FORSYTH said he did not know that he could say any thing, of any description of men, which would more completely convey his meaning than the terms which he had used. For the satisfaction of the gentleman, however, he would state, that he cast no imputation on the committee which might be selected to take this case into consideration, but that he would not consent to vote money to pay the claim of any President, old or new, nor for the affirmation of facts in regard to it, so long as that President continued in office: the reason why he would not, was to be found in the relation of the members of this House to the President of the United States as the source of patronage and power. He did not suppose the present President to be disposed to avail himself of the means of corruption: but he could do so if he pleased—the constitution supposed him to be capable of doing it—and, said Mr. F. whilst I have

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a seat on this floor, I will not consent to act in any capacity which might subject me to an imputation, remote or near, strong or weak, against the purity of my Representative character.

Mr. LINCOLN entertained no doubt but that the most rigid scrutiny into the transactions, referred to by the President, would redound to the honor of that elevated officer. But the question was as to the propriety of accompanying the commitment of the message to a select committee with instructions. Were it referred to a standing committee, the House would know what course it might expect such committee to take, in relation to the subject. The House had every confidence in the discretion of its standing committees, and were acquainted with the forms and customary modes of proceeding in those committees. But, said Mr. L. should we commit the subject to a committee without instructions, we do not know, with the same clearness, the views which will actuate and guide that committee. Mr. L. knew it was the opinion of many members in this House, and of many persons out of it, that when a citizen had served his country long and faithfully, in important trusts, it was just that he should not retire without receiving some distinguished and signal mark of the public gratitude. He presumed no such purpose was entertained now; if it was, it should be presented distinctly. Mr. L. did not view this as a question of particular delicacy. It was an affair of business, which might, without any impropriety, go to a standing committee. But, if not—if it was thought more proper, or respectful, to refer it to a select committee, let the sense or wishes of the House go with it, in the shape of instructions. I, said Mr. L. feel no distrust of any committee, or of any member of this House. We are all, I hope, honorable men. But governments were established on the presumption of the imperfection of human discretion, and human honesty. If men were perfect, why any laws; why juries; why any tribunals for exacting justice? Why not say to all, Do what is right—we fear not injustice nor indiscretion. For my part, said Mr. L. though feeling every proper confidence in the members of this body, I do not think an election to this House an indubitable certificate of honesty and discretion, or a proof that a member's views must necessarily be correct. Why should the House, composed of so many, give up its judgment, and the power of deciding, to so small a portion of it, as a committee of five or six? Why not the whole House judge for itself? and then say to the committee to which it delegates the investigation, We think you should be limited to a certain extent, in the fulfillment of the will of the whole. Mr. L. thought the limitations, or instructions, proposed by the gentleman from Georgia, were, in fact, conformable with the intentions of the President himself; and he really could see nothing exceptionable in them, whatever.

In another view of this subject, said Mr. L. though it presents no question of delicacy in regard to the President—being a mere affair of business—yet it does present a question of delicacy in regard to ourselves. It was well known that the people had always apprehended danger to the purity of this House, from a subservience to Presidential influence. This arose from the great patronage of the President, and from so many of the Representatives always looking to him for office, for themselves or their friends. We know that members of this House have often heretofore been applicants to the President for office: we know that some of them now are. Such applications were viewed by the people with jealous eyes; and we should be cautious, said Mr. L. to give no color to the suspicion of improper influence, in the present case, by the manner in which we act on this subject. There is danger of corruption should we go far beyond what justice claims, and confer by favor on a President what could not be claimed as a right.

Such a course would lead to the danger hereafter of mutual corruption between the President and this House.

Mr. L. in this point of view, deemed the question of vital importance, as it involved the purity of the representative character. His own opinion was, that the matter ought not to be acted on here at all; that it had better go to the Supreme Court, to a Comptroller, to an Auditor—to any other tribunal for investigation; but as it was before the House, he wished it to be disposed of in a manner compatible with duty, with justice, and with the character of the House. These were his opinions; and, averse as he always was to obtruding his views on the House, he could not do less on this occasion, than submit the brief remarks he had made on the subject.

The question was then taken on agreeing to the instructions proposed by Mr. FORSYTH, by way of amendment to Mr. INGHAM'S motion to refer the Message to a select committee, and decided in the affirmative.

For the instructions	90,
Against them	70.

The question on Mr. INGHAM'S motion, as thus amended, was then decided in the affirmative, without a division, and a committee of seven members ordered to be appointed accordingly.

#### HOUSE OF REPRESENTATIVES—JAN. 12, 1825.

##### TERRITORIAL LAND TAXES.

Mr. TAYLOR, of N. Y., offered the following:

"Resolved, That the Committee on the Public Lands be instructed to inquire into the expediency of providing by law that sales for non-payment of taxes laid by authority of the territorial Governments, shall not take place in a shorter period than one year after the same shall become payable; that one year shall be allowed for redemption upon payment of a penalty not exceeding 50 per cent. on the amount of tax. That the Commissioner of the General Land Office, or other proper officer of the Government, residing at the city of Washington, be authorized to receive the tax and penalty from non-resident owners, which he shall deposit in Bank to the credit of the proper territorial officer, and make to him quarterly returns of the sums thus deposited, and that a limitation be fixed upon the amount of tax to be annually assessed upon each quarter section of land in the territories."

In support of this resolution, Mr. TAYLOR observed, that, since the resolution had been offered by the gentleman from Kentucky, (Mr. WICKLIFFE,) some days ago, he had turned his attention more particularly to the subject, and was, on reflection, convinced that it would not do to take from the territorial Governments the power of taxing the public lands. But, that the subject required, in some shape, the interposition of Congress, was very certain. None could doubt it, when he stated that, on a recent occasion, at a single sale of land for the non-payment of taxes, three thousand quarter sections had been sold, amounting to half a million of acres, and that the taxes for which they were sold amounted to about seven thousand dollars. He proposed to refer the subject to the Committee on Public Lands, because he was well assured that the great difficulty which now operates on the minds of capitalists to prevent their investing more money in the public lands, was the amount of taxes, and the difficulty in the mode of paying them. As to the amount to which the taxes should be allowed to go, he was not in favor of restricting it too far. He would leave to the territorial Governments a liberal discretion, but some limit ought to be set. Another subject of the resolution was the place where payment was to be made. In one of the territories, a redemption was provided for on condition of paying the tax, and one hundred per cent. upon

the amount of it. But this was to be paid, not into the Treasury of the United States, but to the purchaser of the lands; and, before a man could redeem his land, he must hunt up the purchaser through all the States of the Union. Mr. T. saw no objection to an arrangement, by which an officer, residing at the seat of Government, should receive moneys accruing in the territories, make quarterly returns, deposit the money in bank, and, from time to time, pay it over to the draft of the officer residing in the territory. A draft on the Bank of the United States would always sell at a premium in the territories. Such a plan would afford great facilities to the purchasers of the public lands, would impose but a small burden on the officer here, and would promote the public advantage, by improving the price of the lands. He was persuaded they would sell much more readily if the buyer knew the limit beyond which the taxes could not go.

In reply to an inquiry of Mr. RANKIN, Mr. TAYLOR explained the difference between the present resolution and that formerly offered by Mr. WICKLIFFE.

Mr. WEBSTER also farther explained what was the purport of the former resolution, (which had been referred to the Committee on the Judiciary.)

Mr. CONWAY moved to strike out so much of the resolution as proposed to restrict the amount to which the territorial Governments might tax the public lands within their limits. In support of this amendment, Mr. CONWAY observed, that he thought it entirely unnecessary for Congress to adopt any restrictive measure for the control of the Legislature of Arkansas in its power to levy taxes. The tax imposed upon lands by the laws of that territory was not more than sufficient to meet the demands upon its treasury, and to support the Government. There was no distinction made by the laws of Arkansas between a citizen and non-resident owner of lands. The tax was equal, and he was sure it would not be increased, but would be reduced, as soon as circumstances would justify a reduction, to a more moderate rate. He was not opposed to the general tenor of the resolution; on the contrary, he thought it might be productive of good, both to the territory and non-resident owners of lands, in securing a portion of revenue to the one, which might otherwise be lost, and in affording protection to the property of the other. It was only to that part of the resolution which he proposed to strike out, that he objected. He objected to it, because it would, if the proposition was carried into effect, be an indirect repeal of a law of the territory; and he doubted whether Congress could with propriety repeal an act passed by the Legislature under the organic law. It was certainly in the power of Congress to repeal the organic law, and reorganize or abolish the Government, which would destroy the whole system; but circumstances did not require this, and he thought it wrong to adopt any measure which would have that effect. He, therefore, proposed to amend the resolution as stated.

Mr. COOK, of Illinois, thought that the object of both the gentlemen would be accomplished by engrafting on the resolution a principle recognized in every act for the admission of new states, in relation to the lands of non-resident proprietors. If the clause now proposed to be stricken out, were replaced by one which should prohibit the taxing of the lands of non-residents more than those of resident land holders, he thought the object sought, would be fully attained. But if the powers of the Territorial Government should be crippled, by limiting the amount of taxes on the lands of non-residents (which formed by far the greater part of the whole) the necessary expenses of the territory would oblige them to tax the land of the resident proprietors out of all due proportion. And he saw no good reason why resident citizens should pay more than non-residents, whose land they defended.

Mr. CONWAY had no objections to this, though he

was perfectly confident the Territorial Legislatures, (at least that of his own Territory) would never lay more burdens on non-residents than on their own citizens.

Mr. TAYLOR observed, in reply, that he could assure the delegate from Arkansas, that he had offered the resolution in no spirit of unkindness towards that territory, in whose advancement he felt a lively interest. He did not know that the Committee on the Public Lands would be able to fix a maximum at all; but he felt persuaded that, if they can, it will have a powerful operation on the sale of the lands. The resolution only proposed an inquiry, and, if its object was found impracticable, the committee would say so in their report. He had not proposed the limitation from any suspicion of the Territorial Legislatures; but it must be manifest that, as nine-tenths of the lands in our territories was held by non-residents, and, of course only one dollar in ten of the taxes laid were to be paid by the resident citizens, there was a strong temptation to lay very heavy taxes. He did not, however, wish to restrain them so far as to interfere with the support of all necessary institutions, and the general improvement of the territories. Far from it. He did not see any necessity for the amendment proposed by the gentleman from Illinois. No instance had occurred where it had been attempted to tax non-residents more than those who resided within the territories, and, indeed, the contrary had grown to be a settled principle of the policy pursued by the new states.

Mr. COOK replied and explained. His object in proposing the limitation was only to secure equal rights. He considered the restriction he had proposed as a sufficient guarantee against the acts of the Territorial Legislatures—as the members were elected by the resident proprietors, and who would thus have to pay their full share of all taxes, and would operate as a check on any abuse. The gentleman from New York was certainly in an error when he supposed that it had never been attempted to tax the lands of non-residents beyond others. It had been done to his knowledge, in some of the territories, as well as in our new states. In Kentucky, the principle was openly avowed—and he believed that security was required that the land should be settled within a given time—and a similar regulation may be adopted in the Territorial Governments. Arkansas might be free from the charge, but this was no security for the future.

Mr. CONWAY had another objection to the restriction proposed by the gentleman from New York. It was an indirect repeal of the organic law of the territory which he represented—and which was practically the constitution of the territory. This consideration surely ought to have some weight. The power of the Territorial Government to tax lands in the territory is now unlimited. This goes to limit it, and takes away a power vested by the organic law.

The question was taken on the amendment of Mr. CONWAY, and negatived.

The resolution of Mr. TAYLOR was then adopted.

#### UNITED STATES' PENAL CODE.

The House then proceeded to the unfinished business of yesterday, which was the bill farther to provide for the punishment of crimes against the United States—(and which was gone through in committee of the whole on Monday last, and reported without amendments.) Mr. WEBSTER stated, that, as he understood that several other amendments were to be offered, and in particular some by a member from Louisiana, (Mr. LIVINGSTON,) which that gentleman desired should be printed, he should move the postponement of the bill till Monday next, as soon as those amendments were presented.

Mr. LIVINGSTON then moved a series of amendments, of considerable length, and embracing many new provisions. The mover having said a few words in ex-

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planation of these amendments, they were ordered to be printed, and the farther consideration of the bill was postponed to Monday next.

#### WESTERN NATIONAL ROAD.

Mr. BEECHER moved that the House go into committee of the whole on the bill for the continuation of the Cumberland road. The motion prevailed—ayes 57, noes 55.

The House went into committee accordingly, Mr. STERLING in the chair, on the bill; which was read. When

Mr. BEECHER, of Ohio, rose, and observed, that the subject to which he was now about to call the attention of the House, was one which had been before Congress, in one form or other, for nearly a quarter of a century. The object of the present bill was merely the continuation of a great national road, long since planned, and in part executed. It was an undertaking that did honor to this nation, which, even in its incipient stage, had already been productive of great utility; but which, when completed, would be of the highest importance to the public welfare. He would not devote any time to a discussion of the constitutionality of the object proposed. The power of Congress to appropriate money for purposes of internal improvement had lately undergone a very full discussion on this floor, and it would be only a waste of time to travel again over the arguments which had been adduced. He took it for granted that the question was now at rest. He conceived that the sense of the nation was by this time well understood as being in favor of a system of internal improvement, to be conducted on enlarged principles, and with a view to the good of the whole Union. The wisdom of such a system was acknowledged by many who were opposed to commencing it in any particular part of the country, but who thought that there must first be a general survey of the whole ground, and then that the various parts of the plan should be begun in different parts of the Union at the same time. He was of opinion that such a scheme was altogether impracticable, and that it was impossible that every object should be delayed till all of them could go on together. Was there any necessity of this mutual suspicion? Could the members of this confederacy, and of this House, think so injuriously of each other as to suppose that they would abandon the system as soon as each district of the country had secured its own object? For himself, he should blush at such an idea. He knew of no valid objection to making a beginning of the system now. The object he advocated was not the thought of a moment. As early as the year 1800, Congress had set about the design of consolidating, by the means of mutual and easy intercourse, the interests of the South and the West with those of the Eastern parts of our Union. The design had met with much opposition; but the good sense of the House had seen the propriety of the measure—it had met the exigency; and, triumphing over prejudice, had accomplished the beginning of an object which, if pursued and carried out, would lead to results of the most important and valuable nature. This was not to be viewed as a merely Western object. Thus far, it had been of more benefit to the East than to the West. It must be viewed, so far, as an Eastern expenditure. Although the funds out of which it had been made were collected in part from the scattered and scanty pecuniary resources of the Western states, who, feeling an interest in the success of a great national object, had willingly contributed to aid it, yet, it had been to them an Eastern object. The people who first settled in Ohio had to make great sacrifices to do this; but they had cheerfully put their hands into their pockets—and they had done so on great national principles.

It had been said by some, that what they contributed was not a gift. True, it was not. Neither was the road a gift on the part of the United States. The considera-

tion on the part of the state was the exoneration of the public lands within it from taxes for a time; but the amount thus remitted was not equal to what the state had paid out. They had been told that a great amount of school lands had been given by the General Government to the Western states. He denied the position: not a foot of school land had ever been given to the state of Ohio: they had all been purchased. He granted that the reservation of the lots for education out of the public lands, originated in a benevolent principle on the part of the General Government. But, it was also true, that that reservation had been a benefit to the Government. The object of it was to aid the sale of the public lands, by holding out to settlers the benefits of a provision for the education of their children. The buyer looked at this provision, and considered it as a part of what he was purchasing when he paid for his land. This gave value to the public land, and brought money into the Treasury of the General Government. These school lands were, therefore, not to be considered as a gift. The reservation, no doubt, operated as a great benefit to the West. Yet the benefit was strictly mutual. There were, indeed, some cases where land had been granted to endow colleges, and the like, which had more the appearance of a gift; but still it was done on the same principle. This intention was made known, when the lands were set up for sale, and it helped to raise their price, and led to a more rapid improvement of the public property. Mr. B. said he had made these observations because it had been said, not only out of doors, but on the floor of this House, and at the last session of Congress, that the General Government had done every thing for the Western States; that it had been most liberal towards them; nay, that it had *civilized* them—and, therefore, the West must not even ask for any thing more. He did not ask the road in this bill as a donation to the Western States—but he asked it as a great national object, and on principles of national policy. In the first place, it would prove a connecting link between the country on the Mississippi and the Atlantic seaboard. Its importance on this ground had been too often discussed, and too long and universally admitted, to be disputed now. In the next place, he would consider it in relation to an objection which had been urged in the debate on internal improvements, viz. that that system would give general offence by leading to an unequal distribution of the public moneys; that revenue would be collected at one extremity of the Union, and expended at another. It was true that every government ought to be just as well as liberal, and dispense its benefits with an equal hand. But how does the principle apply to the actual state of things? What has already been done in the expenditure of the public funds? Fifteen millions of dollars were expended annually, and what proportion of it went west of the Allegany mountain? Go into the states of Kentucky, Ohio, Indiana, and Illinois, and see what proportion of what those states paid into the Treasury, was expended within their own bounds. He would not enumerate the expenditures of the Government—all must know that almost the whole of them were on this side of the mountains—though the population was not as one to fifteen. The whole of the public money expended in Kentucky would not amount to what the mere collection cost on the east of the Allegany. Many of the objects of the expenditure had no existence to the West. Your forts, your light-houses, your navy, the whole civil list, with the exception of one or two judges, and the Representatives in Congress, existed to the East, and there went the greater part of all that was expended for the army. What equality was here? It could not be maintained for a moment. But now a great national work was proposed, which, so far as it went, was calculated to make the balance less unequal, and as such it was deserving of the favorable regard of this House. The mere expenditure of the money which this road

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would cost, would itself be a great benefit to Ohio, and he hoped it was not unjust that they should have a share of the public expenditure, as well as others. The entire sum would not be equal to what was now expended in some small ports on the Atlantic coast. The building of a single frigate would cost as much as the whole road now asked for. He did not wish to be understood as complaining of the expenditures to the East; he had himself always been in favor of authorizing whatever was needed for the national welfare—he had supported the appropriation for the Navy, as well as those for Fortifications—so have the western members in general, although they might, in some sense, be said to be uninterested in those expenditures. They viewed them as tending to the common benefit of the nation, and they had cheerfully supported them.

On the same principle he hoped that the object for which he was pleading, would meet with the support of gentlemen from other states. The effect would be to increase the confidence of the people of the West in the General Government. It was not necessary to be liberal, to shower your benefits on those people, to attach the West to the General Government. They were disposed to cleave to that Government, nor could any thing but the most extraordinary injustice, and ill treatment, cast them off from its side. This was the proper period to act, while the power of the nation was where it was at present—a liberal policy, if now pursued, would set a lesson to posterity, when the physical force of the nation may reside in a different part of it. As the example should now be set, might the benefits be looked for which would follow it.

This road was not asked to benefit Ohio exclusively. By granting it, Congress would but pursue an object which was dear to a great part of these United States. The road had been completed as far as the eastern bank of the Ohio. It was now ready to be continued to the west of that river. Sixteen hundred thousand dollars had been expended upon it within the limits of Pennsylvania, Virginia, and Maryland. It was now to go into Ohio; and, in doing so, it would only go where it was contemplated in the original plan. From 1800 to the present time, all the legislation respecting it went on the supposition that the road should be continued as now proposed. As it now remained, it was but an entrance to the four western states. A clause in the law expressly stipulated that the whole of the two per cent. reserved from the sale of the public lands, might be expended east of the river; but this was not the original idea.—The original plan was, that three per cent. out of the five, reserved in Ohio, should be spent in Ohio, and two per cent. on a road to Ohio. Then came the law extending the road through Ohio to Indiana. Then another to extend it through Indiana to Illinois; and then through Illinois to the Mississippi. The constant understanding, however, from the very beginning, was, that the road was ultimately to reach the Mississippi. The object was a grand one. It would connect the Seat of Government, by a journey of ten days, with a part of the Union that could not now be reached in thirty days. He hoped it would be viewed not as a local or a state object, but as an interest of the whole Union. So far as the nation had hitherto acted respecting it, it had acted with no narrow or local views. This had been treated as an important feature in a grand system of Internal Improvements, and it had been viewed on principles of united national advantage. He knew perfectly that every farm, or every village or town, cannot be benefited alike by any great object of this kind; but could it be that there was in this House any man, of mind so narrow and contracted, as not to further a national interest, unless the particular benefit of his own village was advanced by it? If there was one such man on this floor, he must pronounce him unfit to be a legislator for such a country as ours. It requires that we should cast

away selfishness, if we would rightly serve our country; that we should look on all her interests as our own. Did this principle always prevail, the business of legislation would be better done. There would be less strife, less disputing, less heart-burning, among us. If this principle were not acted on, the great benefit of our confederation must be lost entirely.

He would now endeavor to show, that the two per cent. of the amount of the sales of the public lands, which had been pledged to this object, would never be reimbursed. The expenditure of that two per cent. would never reimburse the 1,600,000 dollars which were already expended. He would state candidly that the money granted for the continuation of the road must not be viewed as a loan, to be repaid by the Government; it must be viewed as money expended on a great national object. An appropriation had been made five years ago for a general survey of the road from Wheeling to the Mississippi. The directions given were, to locate the road as far as the appropriation would go. This had been done from Wheeling to Zanesville. From the western bank of the Ohio to the eastern bank of the Muskingum, the road, as now travelled, was about 82 miles; as located, it would be less than 80 miles. To finish this length of the public road, would require about \$450,000, perhaps less, but it was not now contemplated to ask an appropriation for the whole. All that he at present sought was, that a commencement should be made, and made with the clear understanding that the road was to go on. To grant, at this time, less than \$100,000, would be almost useless. An agent must be employed to make contracts, and superintend, &c. and the expense of employing him would be as great if \$100,000 were appropriated as if 200,000; and, believing that the latter sum would be sufficient to commence this work, he moved to fill the blank with two hundred thousand dollars. He trusted that the flattering prospects of the Government would warrant the appropriating of this sum, without danger of inconvenience; and if a like amount were given next year, it would be sufficient. A great and beneficial public measure would thus be commenced; the money would be thrown into circulation among our own citizens; it would be expended in the bosom of our own country, and would return to the Treasury with interest, after having improved the market for our produce, bound the extremities of the nation in closer ties, strengthened mutual confidence, attached the people to their Government, and promoted the general strength and prosperity of our common country.

Mr. COOK, of Illinois, then rose, and observed, that he should not say any thing in addition to what had fallen from the gentleman from Ohio, (Mr. BRECHER,) respecting the national expenditures east of the mountains. Independent of that consideration entirely, the Western states had a claim upon the General Government, for the road now proposed, and not only for so much of it as was now proposed, but for its continuative quite to the Mississippi. But, as the Representative of the state of Illinois, Mr. C. said he could not consent that so much of the two per cent. on the sale of public lands, as was set apart for the benefit of that state, should go to be expended at so great a distance from it. He would not, indeed, adopt the principles and spirit of Shylock, in pressing the bond of the General Government to the state he represented, but as its representative, he could never give his vote to take a fund pledged for her benefit, and lay it out on so distant an object as a road of eighty miles from Wheeling to Zanesville, in the state of Ohio. He would not take what the munificence of the General Government (for he would call it by that name,) had set apart to make a road to Indiana, Illinois, and Missouri, to be spent on a road, which did not approach either of them; nor would he consent that money, granted for the road now proposed, should be given on that fund. Indiana had



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surrendered her rights as a sovereign state, (the right to tax lands for five years after sale,) on condition that Congress would apply two per cent. on the sale of public lands to the construction of roads leading to the state. For his own part, he was not so sanguine as to the prospect of seeing a great national turnpike completed, as the gentleman from Ohio seemed to be. He did not expect that that object would be accomplished in his life time, should he reach the ordinary age of man. Nor was he willing to postpone the road to his own state till that national object was accomplished, and the present generation had passed away; and he had long since made up his mind not to vote for the appropriation of any more money which was to be charged on the two per cent. fund, unless it went to carry the road entirely through. Congress had appropriated two per cent. to the making of a road leading to Illinois. The gentleman from Ohio proposes to pledge it for a road three hundred miles short of the bounds of Illinois. I will not consent to this. If I did, I should be censured, and justly, by those who sent me here as the guardian of their interests. The Legislatures of Ohio, Indiana, Illinois, and Missouri, had each passed resolutions, calling on Congress for an appropriation to this object—it was an object of deep interest to all those states, and he should be departing from the instructions of his constituents, if he gave his vote for a road in Ohio only. In order to bring the subject fairly before the House, he would now move to strike out all that part of the bill which follows the enacting words, and substitute therefor the following:

“That the President of the United States be, and he is hereby authorized and empowered to appoint one impartial and judicious person, not being a citizen of either of the states through which the road hereinafter mentioned shall pass, to be a commissioner: and, in case of the death, resignation, refusal to act, or any disability, of any such commissioner, to appoint another in his stead, who shall have power, according to the provisions of the act, entitled ‘An act to authorize the appointment of commissioners to lay out the road therein mentioned,’ approved May the fifteenth, one thousand eight hundred and twenty, to complete the examination and survey heretofore commenced by virtue of the provisions of said act, and to extend the same to the permanent Seat of Government of the state of Missouri; the said road to conform, in all respects, to the provisions of the said recited act, except that it shall pass by the seats of Government of the states of Ohio, Indiana, and Illinois; and the said commissioner, and the persons employed under him, shall receive the same compensation for their services, respectively, as is allowed by the said recited act.

“Sec. 2. *And be it further enacted*, That, so soon as the plan and report of the commissioner so appointed, shall be made to the President of the United States, and approved by him, he shall cause the said commissioner, as soon as may be, to issue a notice, to be printed in at least three of the public newspapers published within the states aforesaid, and for at least three months previous to receiving the same, that proposals will be received by him, at the places therein specified, and in such manner as the President may deem it most advisable to order them to be received, for opening said road, and bridging, with wooden bridges, such streams which it may cross, as shall be directed by the President to be bridged, or such part or parts thereof, within such time, and in such manner, as shall be specified in said notice, which shall be, in all cases, let to the lowest bidder: *Provided, however*, That nothing herein contained shall be construed to authorize the construction of a turnpike road.

“Sec. 3. *And be it further enacted*, That, for the purpose of paying the said commissioner, and those employed under him, for their services in laying out, surveying,

and marking the said road, and for compensating the said commissioner, for superintending the construction, there shall be, and is hereby appropriated, the sum of six thousand dollars, to be paid out of any money in the Treasury, not otherwise appropriated.

“Sec. 4. *And be it further enacted*, That, for the purpose of defraying the expense of making and bridging said road, there shall be issued, under the direction of the President of the United States, in certificates or scrip, the said certificates, or scrip, to be of the nominal value of one hundred dollars each, an amount not exceeding two hundred thousand dollars, to be receivable only in payment for public lands at the several land offices in the United States; which said certificates, or scrip, shall be paid to the contractors employed in making the said road, so soon as their several contracts shall be complied with, and not before.

“Sec. 5. *And be it further enacted*, That the money hereby appropriated, and the certificates, or scrip, hereby authorized to be issued, shall be a charge upon the two per cent. fund, heretofore set apart and pledged by the several acts of Congress authorizing the admission of the states of Indiana, Illinois, and Missouri, into the Union, for the construction of roads and canals leading to those states, and shall be retained by the United States out of the first money coming into the Treasury, and applicable to those objects.”

Mr. BEECHER rose in reply—he declared himself to be disappointed, both in the quarter from which opposition had arisen, and in the principle on which it was founded. He thought he had stated, when first up, with sufficient distinctness, that the appropriation for this part of the road was a matter entirely distinct from the two per cent. reserved from the proceeds of the public lands. The gentleman from Illinois cannot but know that that is already pledged, and already expended; it had been laid out on a road “toward” the state of Illinois, which was the very language of the very act pledging it. He would not, however, cavil about this little two per cent. fund—he wished to place the present measure on a broad national basis—on the general principle of internal improvement. He was surprised to find that gentleman limiting his views as he had done, and narrowing himself into a mere agent for the State of Illinois. If every gentleman on this floor is to act on such a principle, this House will be converted into a body of disorganizers, and its acts must tend, not to union and national strength, but to separation and national weakness—it was by adopting larger and more noble principles that this nation was to grow and flourish. The gentleman insists on a road that shall reach Illinois—but how will he get it there? on the mere two per cent. fund? That whole fund was not sufficient to make the road through one county in Indiana—it would not even mark the road through that state—if this road is to be gone on with at all, it is to be done on the funds of the nation, and not on a pittance of a two per cent. fund. The gentleman wants to lay out a grand national road 500 miles long, on a fund that will never raise one million of dollars; no not more than 700,000. But \$1,600,000 has already been expended, on this same fund, whether properly or not, is not the question. No, sir, said Mr. B. I ask gentlemen, and I ask that gentleman, to meet me on principles upon which alone either he or I can be benefited in this matter—on grand principles of general national advantage—principles which animated and gave success to those who first broached this measure—principles on which had been based the acts of 1803, of 1806, of 1812—and on which all that had been done to this day had been avowedly founded. For himself he had candidly placed the object before the House in its true light—as requiring a distinct appropriation for which there was to be no return from the two per cent. fund, or any other. The nation is about to make a road; and if the nation shall say it is best to begin it at the Mississippi river,

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I will give that gentleman my hand to support the measure; but I presume it will be the opinion of the nation, nay, I do not doubt the gentleman himself will allow that it is better to begin where the road has now been discontinued. This is the day to act; the season is now as favorable as can be expected on any future occasion; if any improvement is to be made on the national road, let it be done where the road has been already surveyed; when this has been effected, it will be time enough to give pledges for more; unless it is intended to go on and build the road, it will be unnecessary to carry the location of it any further; it is now impassable where a commencement only has been made; this must be first finished, otherwise nothing will be gained, but he trusted it would be gone on with—and conducted as a great national object for the general good; not for this town or that town—for this state or for that state—but for the whole Union. And he begged of the gentleman from Illinois to give an opportunity to its friends to try whether or not the nation is now ready and disposed to make a road, and whether it will appropriate for the completion of that which has already been surveyed; and he felt that, by supporting the object, that gentleman, instead of compromising, will be advancing and securing the true interests of his constituents.

Mr. JENNINGS, of Indiana, observed that he regretted being obliged to oppose the bill; but he believed that the history of the measure, in its earlier stages, was not generally known or understood. In the original compact between the state of Ohio and the United States, two per cent. out of five per cent. of the proceeds of the public lands was reserved for the purpose of making a road from the navigable waters of the Atlantic to the navigable waters of the Ohio, and thence through the state of Ohio. The compact did not prescribe what kind of a road it should be, nor with what views it should be constructed, whether with a national view or not. Congress, in fulfillment of this contract, had thought proper to make such a road as was not to be found elsewhere in the United States; and they continued to carry it forward without considering what the fund pledged was likely to yield, till it came west of the Alleghany mountains. They then found that the whole proceeds of the fund had been swallowed up, and more. Then an appropriation was asked to complete the road on the same scale; some difficulties arose; and, in 1819, the appropriation was made, with a proviso, the effect of which was completely to violate a contract with the state of Indiana. (Here Mr. J. quoted the act of 1819.) The compact with Indiana was not similar in its terms to that with Ohio—it prescribed a specific location for the road—but the appropriation could not be obtained on any other condition. Two years since a bill was introduced into the House to repair the Cumberland road—and he had offered an amendment to it, with the express view of removing the restriction imposed on the fund by the act of 1819; which, however, he was induced, by the solicitations of his friends, to withdraw—he had always thought, however, that the Government kept bad faith with the State of Indiana. He had a reason and an object in wishing that the road may be located, and opened afterward. The whole of the fund pledged has been expended, and the road for which it was first pledged is not even located. The State of Indiana has no authority to locate it. That can be done only by the General Government. So that all is kept in a state of suspense, and nothing can be done for want of a location. But, if this were once effected; if an appropriation were granted, first to locate the whole of the road, I would then be willing to give the gentleman enough to carry the road in a complete state to Zanesville.

Mr. COOK again rose and said, the gentleman from Ohio, (Mr. BEECHER) and himself did not differ so widely as that gentleman seemed to suppose. He says the two per cent. fund will never be adequate to pay the

debt incurred for carrying on the road. If so, it was idle to pledge that fund; and, as he now understood that the gentleman was willing to strike out so much of the bill as pledges it, and ask for an appropriation on national grounds alone, he should have no objection to the bill. But, as the views of the gentleman may have excited some prejudice against the measure, he must take this opportunity to protest against the view he had expressed of the two per cent. fund. He says it will never yield above \$700,000. Now, the extent of the three States of Indiana, Illinois, and Missouri, is pretty well ascertained. It is to be found in any of our statistical tables—and, if the gentleman will add these amounts together and deduct that of the lands sold, he will find that, in those three States, there remain yet one hundred and one million of acres to sell; which, at the minimum price fixed by law, will yield, when sold, to the two per cent. fund, about two millions and a half of dollars. (It is not an extravagant calculation to suppose that all the lands will sell at the minimum price fixed by law—because that portion which will not bring that price will be at least made up by that which brings a greater.) As to the pledge of this fund for the payment of the Cumberland road, he had already insisted that it was in direct violation of the compact of Government with those States. The words of the compact were explicit—it was reserved for a road from the Atlantic waters "to" those States. If the doctrine of the gentleman from Ohio, (Mr. BEECHER,) is sound, the road might have been begun at Boston, and, if it only pointed in a direction towards Indiana and Illinois, the two per cent. fund might be expended upon it, though the road terminated at 500 or 1,000 miles from the bounds of either. Such an idea never so much as entered the heads of the members of the convention who assented to that compact. He had not the honor to be one of them, but he was present during all their proceedings and well knew that they never could have conceived that such a meaning would ever be given to the instrument. They did not suspect that the Congress of the United States would ever attempt to deceive them with words. So long as the pledge of this fund remains in the bill, the gentleman who introduced it would find him perfectly unyielding: but, if he will strike out that pledge, and leave the House free to act as they may judge proper, without any such engagement, he would lend the measure his support. But, if Congress should not consider this road as a general national concern, and a benefit due to the country through which it is to pass, but shall insist on those States fulfilling the bond on their part, he should, on behalf of his own, insist upon the whole compact being fulfilled.

Mr. M'COY vindicated the Government from the charge of a violation of good faith. The fund had been pledged to make a road toward Ohio, not from Boston, but from this city. The Congress had done it not through any oversight, but deliberately and advisedly. Some difficulty was experienced in getting the money—none whatever in getting the pledge. The road does lead toward Ohio. He concluded his remarks, (which being delivered in a very low tone of voice, were imperfectly heard by the reporter,) with expressing a hope that the amendment proposed by the gentleman from Illinois would not prevail.

Mr. TRIMBLE said he had risen, not with any intention of detaining the House, but for the purpose of shewing that the gentleman from Illinois had entirely mistaken the compact respecting the two per cent. If there was any one point in his whole argument which went on an entire misapprehension of fact, it was his view of this subject. When the original bond, as the gentleman from Illinois had called it, was entered into between the United States and Virginia, territory now occupied by four States was but a wilderness. It was yet under territorial government when the act of Congress passed al-

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lowing the eastern *division* to form a State Government; and by the *compact* between that State and the United States, a reservation of two per cent. was agreed to on both sides, to be used in making roads from the navigable waters of the Atlantic to the state, (*Ohio*.) and *through the same*. Now, suppose those states were a territory still, how would you begin the road agreed upon? You would begin, first, a road to it, and then you would carry the road *through* it; but the dividing of the territory into states had not changed the stipulation. And now, to examine the subject in relation to the gentleman's own state. He insists upon a literal fulfilment of the contract, and charges the General Government with having violated it by applying the two per cent. reserved to the expense of the Cumberland road. But what does the contract say? It says the reserve shall go to make a road to the state; and the gentleman is pleading that the road must be *through* the state. It is himself that is violating the letter of the compact. (Nor does this argument, for a liberal construction, come with a very good grace from the gentleman, who himself but lately proposed that the road should be, in part, exchanged for a canal.) But the gentleman must remember that there are two parties—the United States on the one side, and his state on the other. Now the question recurs where must the road, according to the compact, be commenced? Shall you begin it at the Mississippi? This would be to begin by making the road *through* Illinois, whereas the contract stipulates that the road shall first be made to that state, and the two per cent. is so pledged. The construction of the gentleman is against both the letter and the spirit of the compact. Congress is at perfect liberty to pledge the two per cent. if they so please. For himself, Mr. T. said he felt very indifferent whether the pledge was given or not. But now, to come to the good sense of the matter, we have made the road, said Mr. T. as far as Wheeling; this is a road to the territory; we are now to make a road *through* it. Where shall we begin? At the point where the part already finished terminates? Or shall we go on with the whole at once? Good sense, he thought, would decide that the beginning should be made at Wheeling. There was the great thoroughfare to the West; the country was thickly settled and peopled; and the road would at once produce the greatest benefits. Shall we leave this and go to the sparsely peopled regions of Illinois? He did not, however, intend to enter further into the subject, having risen merely for the purpose of answering the argument of the gentleman from Illinois.

Mr. BEECHER here rose to say, that, if the gentleman from Illinois, (Mr. COOK,) would withdraw the amendment he had offered, he would meet his views by striking out that clause of the bill which goes to pledge the two per cent. fund.

Mr. COOK signified his intention to do so, when he should have first replied to the gentleman from Kentucky, (Mr. TRIMBLE.) The gentleman, said Mr. C. has presented certain supposed views of mine about the school fund in Illinois being diverted to canalising purposes, and represents me as being willing in that affair, to violate the compact of Illinois with the United States, although I contend, on this occasion, for its literal interpretation and fulfilment. Sir, this is so glaring an attack upon my understanding and consistency, that I cannot let it pass without reply. The gentleman has entirely misstated my proposition in relation to the school fund. I proposed merely to apply the school fund to the construction of a canal, and reimburse it out of the tolls, but I did not propose even this arrangement of mere convenience to be carried into effect without the consent of the state legislature first asked and obtained. I did not, therefore, contemplate the slightest violation of the compact.

He sets out in his argument with a fact of which I never had the good luck even to hear till he spoke of it,

viz: an agreement of Virginia with the United States on the subject of this road. Now I always had thought that the first agreement respecting it was made with Ohio. I never heard of such a compact as that he speaks of. He objects to my interpretation of the agreement of the General Government with Illinois, as though I wanted, on that agreement, a road to be constructed *through* my own state. But, sir, Missouri lies beyond Illinois, and if my construction be a sound one, as the fund of Missouri also is pledged, the road must reach Missouri, and will, of course, traverse Illinois. I hold, therefore, that my argument has not been shaken by the gentleman from Kentucky, (Mr. TRIMBLE.) I shall, however, now withdraw the amendment I offered, and allow the gentleman from Ohio, (Mr. BEECHER,) an opportunity to get at work upon the road as soon as he can, assuring him that I shall rejoice in his success.

Mr. BEECHER then moved to strike out all that part of the bill which contains the pledge above alluded to. He stated, in explanation, that the clause had been taken from the former acts, in all of which it was to be found. When it was proposed in the committee which prepared the bill, to retain this clause, he was himself opposed to it—for he considered the pledge as amounting to nothing, the fund being already expended. If this measure succeeded at all, it must succeed on grand national principles, and on these alone the appropriation must be made. He thought it best to be candid, and at once to place the object on its real grounds. He was confident that such a course in this House could never operate to injure the bill.

The question was then put on striking out, and there rose in its favor 53, against it 47; which not amounting to a quorum of the House, and the Chairman being about again to put the question, on motion of Mr. BEECHER, the committee rose, and, having obtained leave to sit again,

The House adjourned.

IN SENATE.—THURSDAY, JAN. 13, 1825.

The following message was received from the President of the United States, by Mr. Everett:

*To the Senate of the United States:*

In compliance with two resolutions of the Senate, the first of the 21st and the second of the 23d December last, requesting information respecting the injuries which have been sustained by our citizens, by piratical depredations, and other details connected therewith, and requesting also information of the measures which have been adopted for the suppression of piracy, and whether, in the opinion of the Executive, it will not be necessary to adopt other means for the accomplishment of the object; and, in that event, what other means it will be most advisable to recur to, I herewith transmit a report from the Secretary of State, and likewise a report from the Secretary of the Navy, with the documents referred to in each.

On the very important questions submitted to the Executive, as to the necessity of recurring to other more effectual means for the suppression of a practice so destructive of the lives and property of our citizens, I have to observe, that three expedients occur: one, by the pursuit of the offenders to the settled as well as the unsettled parts of the island from whence they issue; another, by reprisal on the property of the inhabitants; and a third, by the blockade of the ports of those islands.—It will be obvious that neither of these measures can be resorted to, in a spirit of amity with Spain, otherwise than in a firm belief that neither the government of Spain, nor the government of either of the islands, has the power to suppress that atrocious practice, and that the United States interpose their aid for the accomplishment of an object which is of equal importance to them as well as to us. Acting on this principle, the facts which justify this proceeding being universally known

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and felt, by all engaged in commerce in that sea, it may fairly be presumed, that neither will the government of Spain, nor the government of either of these islands, complain of a resort to either of those measures, or to all of them, should such resort be necessary. It is, therefore, suggested, that a power commensurate with either resource be granted to the Executive, to be exercised according to his discretion, and as circumstances may imperiously require. It is hoped that the manifestation of a policy so decisive will produce the happiest result; that it will rid these seas and this hemisphere of this practice. This hope is strengthened by the belief, that the government of Spain and the government of the islands, particularly of Cuba, whose chief is known here, will faithfully co-operate in such measures as may be necessary for the accomplishment of this very important object. To secure such co-operation, will be the earnest desire, and, of course, the zealous and persevering effort of the Executive.

JAMES MONROE.

Washington, 13th January, 1825.

The message was read, and, with the documents accompanying it, ordered to be printed.

## HOUSE OF REPRESENTATIVES.—SAME DAY.

## CONTINUATION OF THE CUMBERLAND ROAD.

The House proceeded to the unfinished business of yesterday, and went into committee of the whole, Mr. STERLING, of Connecticut, in the chair, on the bill to continue the Cumberland road; and the question being on the motion of Mr. BEECHER, to strike out that part of the bill which goes to pledge the 2 per cent. fund arising from the sale of the public lands, to reimburse the sum appropriated,

The question was taken on Mr. BEECHER's amendment, and it was negatived by a large majority.

Mr. BEECHER moved to fill the blank in the bill with \$200,000, and the question being taken without debate, it was decided in the negative, ayes 50, noes 75.

Mr. B. then moved to fill the blank with \$150,000.

Mr. McDUFFIE, of South Carolina, rose, and said, that he wished clearly to understand what would be the effect of the provisions of the bill, and for that purpose he had risen to inquire what was the present condition of this fund of 2 per cent. of the sales of the public lands? If he had been correctly informed, the proceeds of that fund were all exhausted on the Cumberland road, and the money now to be appropriated was to be advanced on a fund which would not yield any returns, perhaps, in fifty years, perhaps never. He wished to meet the question fairly; and, if the money was to be given out of the Treasury for the object proposed, he wished at once to know it, that the House might not put on the statute book an act in a deceptive form, purporting that the money granted is to be returned, when no such thing is expected. As the matter now stood, he should vote against the bill; but he wished for further information, and hoped that some of the gentlemen who had the charge of the bill would favor him by stating the true situation of the fund.

Mr. RANKIN, of Mississippi, observed, that, as it was his purpose to oppose the bill, he might as well take this time as any other to present his objections to it. He felt assured that he should not be so far misunderstood as to have it supposed by any gentleman on that floor that he was otherwise than friendly disposed toward the system of internal improvement on which the House and the nation had last year entered, and he was equally certain that his friends from the West would not suspect him of being hostile to their interest; for, if any part of the whole Western country might be said to be closely connected in interest with the state he represented, it was that in which the contemplated object was proposed to be carried into effect. But, he did not think the

course proposed was the best to be at present pursued. The great system of Internal Improvements ought not thus to be commenced in detail. What had last session been done as a commencement of the system, had been done on a scale, and in a manner, worthy of the nation. The first step in such a plan was to have a full survey of the whole field of operation, and then to consider what parts of the general system require the first attention.

The observations which had so repeatedly been made by the gentleman from Ohio, (Mr. BEECHER,) as to the comparative expenditures on the east and on the west side of the Alleghanies, were calculated to shew that the commencement of the plan, in the manner now proposed, or in any manner similar to it, had a direct tendency to arouse sectional feeling and awaken local jealousies. If, indeed, as had been contended by the gentleman, the government is bound by contract to make this road, why, then, it must be made; but, if not, and if this measure stood on the same ground of its own independent merits as any other object of internal improvement, then it was proper to pause and consider whether the course proposed was the wisest and best. It was his own opinion that the government is not bound by any contract to go on with the Cumberland road.—The first act on this subject was that in 1802, when 2 per cent. of the proceeds of the sales of the public lands was reserved for the purpose of making a road from the navigable waters of the Atlantic to the navigable waters of the Ohio. The great object of this reservation was, that a chain of communication might be opened and secured between the states on the Atlantic and the states on the Western waters. This leading object of the original contract was to be taken as a guide in the interpretation of all the subsequent contracts which were entered into on the same general subject. None of those contracts except the first, stated where the stipulated road was to run *from*. One said it was to run to Indiana; another, that it was to run to Illinois, &c.; but, for aught in those compacts, it might start from Detroit, or from Boston, or from Charleston, or any other point in the Union. The great object was to secure a line of connection between the Atlantic and Western states, and this must constantly be kept in view in interpreting the terms *to* and *from*, as they occur in those contracts. This construction presents an object which was worthy of the legislation of government. It was well known that the three great Western states were already sufficiently bound to each other by their relative situation; their interests were all closely allied, and they needed nothing to draw the bands closer, or render them stronger. But it was not so with respect to them and the Atlantic states. Between them was interposed a barrier of mountains, the natural effect of which was to separate their interests, and alienate their attachment from each other. Congress wished, so far as possible, to do away this barrier, and consolidate the interests of the Eastern and Western parts of the Union, by establishing a chain of direct and easy intercourse between them. Another reason in favor of this construction was the uniform course of the legislation which had been pursued on this subject. The original contract with the state of Ohio was made in 1802. In 1806, the appropriation was made for the Cumberland road; and every subsequent act from 1806 to 1819, had had the same uniform design and tendency, viz. to connect the Eastern and the Western states. The last pledge of the 2 per cent. fund was made in 1819; those prior had been only of so much of the fund as arose from lands in Ohio: then followed the pledge of the 2 per cents. from Ohio and Indiana; then of those of Ohio, Indiana, and Illinois. He presumed the latter was made with the consent of Illinois.

As to the application of this fund to the Cumberland road, it would be found that, in December, 1823, the total amount of the 2 per cent. fund was \$249,000. The amount appropriated for making the Cumberland road was

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about \$1,600,000—which would leave a balance of the appropriation, over and above the amount of the 2 per cents., of \$1,407,000, to be made up out of that fund. From this statement it must be plain to every body that that fund would never replace what had been expended already.

He did not see that the claim of Ohio for money for a road, was to be placed before that of the other States. Congress was not yet prepared to enter on the detail of this system of internal improvement. If in carrying that system into effect, Congress wished to do justice to the whole country, the first measure must be a general survey. If, when that was done, it should be the opinion of Congress that the point now proposed was the proper one at which to commence the system, he should cheerfully consent to it. He had risen now chiefly to shew that Congress had a right to do what they had done in pledging the 2 per cent. fund for the Cumberland road.

Mr. McLEAN, of Ohio, then rose, and addressed the Committee as follows:

"Coming as I do from a section of the country through which this road is expected to pass, and entertaining the views I do as to the great benefits that will result from it, not only to the particular part of the country through which it may be constructed, but to the United States in general, I feel it to be my duty to contribute my feeble exertions for the accomplishment of the object. The friends of this bill are willing it should be considered by Congress without reference to that provision contained in it, for refunding the appropriation for the 2 per cent. fund. It is presented to the consideration of the committee as a great national object, and, as such, we ask and hope for its passage.

Mr. Chairman, the commencement and completion of the national turnpike road to Wheeling, has been received by the West as a sure indication that a great national road would be constructed, under the auspices of the General Government, through the states north of the Ohio, to the Mississippi river. In the completion of this work, the Western States are not alone interested; the Eastern and Middle States, if not to the same extent, are, notwithstanding, so far interested, as to ensure, on their part, I trust, a most hearty concurrence in support of the measure. It would perhaps be unkind to anticipate any thing like a united opposition from any section of the country; for, so general are the benefits which will result from it, that, to suppose any hostility from the South, or the North, would ascribe to them less liberality of feeling than I am conscious they possess.—Sure I am, sir, as it regards myself, and, in this respect, I believe I could answer for the gentlemen of the West in general, a most cordial co-operation would not by them be withheld from any measure calculated, in equal extent, to promote the interest of any section of the Union.

Mr. Chairman, the claims we have, from the work already executed, are entitled to the respectful consideration of every gentleman. But, the general good that will result from the work, is of itself a consideration sufficient, it seems to me, to secure the favorable opinion of every member of this House who is disposed to sanction an internal policy, more calculated than any other to promote the great interests of the nation. Some, perhaps, who may be unfriendly to the policy, or may feel hostile to this road, may make some objections on account of the expense which has been incurred in making that part of it already executed. This, however, can afford no substantial objections to its prosecution and completion. If any abuse has existed, the knowledge of its existence points out the surest method of guarding against it in future. Some experience has been acquired, which, in making improvements of this description, is of incalculable value. The price of labor is now greatly reduced, and every consideration seems to point out

the present as the most favorable period for the extension of this great national work.

Mr. Chairman, those who have travelled this road to Wheeling, or who reside upon it, are only capable of properly appreciating its advantages.

In a favorable season for emigration, the traveller upon this highway will scarcely lose sight of passengers, of some description. Hundreds of families are seen migrating to the West, with ease and comfort. Drovers from the West, with their cattle, of almost every description, are seen passing eastward, seeking a market on this side of the mountains. Indeed, this road may be compared to a great street, or thorough-fare, through some populous city—travellers on foot, on horse-back, and in carriages, are seen mingling on its paved surface, all seeming to enjoy the pleasure of the journey, and to have a consciousness of the great benefits derived from it. With much propriety may it be called a national road: for its advantages are so diffusive, that no other term would be found equally appropriate. In another point of view the name is proper—it is the only lasting monument of the kind that has been constructed by the beneficence of the nation, and should this road be completed, and none other of a national character, advancing the internal prosperity of the country, be constructed, it would of itself constitute a more durable monument of its glory, that has been left by any of the free governments which have preceded our Republic.

Sir, I defy any man of ordinary sensibility, or common patriotism, to travel that part of this road which has been completed, and not to feel proud of his country. I will venture to assert, however strongly it may be controverted, that no sum of money, of the same amount, has been appropriated from the Treasury, since the adoption of our Constitution, so much to the advancement of the public interest.

Sir, all who feel a proper degree of interest, it appears to me, in preserving our Union, cannot be too solicitous to secure it by removing every obstruction to a continued intercourse between the different parts. In effect, the most remote parts of our country are brought near together, and identified in interest, by turnpike roads and canals; and when commercial intercourse is facilitated in this way, connections are formed, and interests become so interwoven, that nothing can separate them.

This policy, and this only, can unite the different sections of our country under the adverse circumstances which may befall us. This alone can render our Government as permanent as its principles are sound and favorable to liberty.

Mr. Chairman, we may theorise as much as we please, and talk of the moral sentiment that every where prevails, in our country, but, unless our citizens are united in interest, there is no ligament sufficiently strong to bind the different parts together. Our country embraces all the varieties of soil, of climate, and production; our interests are often variant and conflicting. In some conflicts of opinion, and of interest, it is to be feared, animosity of feeling may be indulged, until a settled hostility shall prevail, and this may lead to the most direful consequences; but, bring the remote parts of the country together by turnpike roads, and no danger need be apprehended. I can name no sections of the country more important to connect in interest, than the East and West—there seemed to be a natural barrier to their intercourse, but this has in part been done away by that part of this road already completed—and I trust in this is the commencement of a policy which shall only cease after the great objects shall have been accomplished.—The extension of the national road through Ohio, Indiana, and Illinois, will extend the advantages to the public in the same proportion as the length of the road shall be increased. Every individual who may travel this road, or purchased goods which have passed over it; all who may have stock to send to market, or products of any



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description, that will bear a land transportation; and all who own land convenient to this road, will experience an almost incalculable benefit from its extension.

Will Congress withhold this boon from the country? Will they deny this act of justice to the West?

Mr. Chairman, if this were to be a business of mere calculation; if it were to be estimated by dollars and cents, as a merchant would be influenced to purchase his wares; yet it might be demonstrated that the work should be done. The General Government will be benefited by the enhancement in the price of the public lands to an amount nearly equal to the expense of the road. But when this is taken in connection with the advancement of individual wealth, and the general convenience, there is nothing that can authorize a moment's hesitation in sanctioning the appropriation.

Mr. Chairman, knowing as I do the feelings of the citizens of the state of Ohio, on this subject, and especially that portion of them which I have the honor more immediately to represent, I can but feel and express the most anxious solicitude on this subject, and I will cherish a hope it will succeed."

Mr. MERCER observed, that he felt no doubt either of the usefulness of the road now proposed to be continued, or of the constitutional power of Congress to appropriate money for the purpose. The latter question he considered as having been definitively settled by the discussion of last session in this and the other House.—He had now risen not to discuss either point, but only to answer the argument of the gentleman from Mississippi, (Mr. RANKIN.) His objections seemed to respect chiefly two aspects of the measure. The first is drawn from the acts of cession by which the new States surrendered certain rights over the lands within their limits on conditions to be performed by the United States.—This objection applies to the power of Congress. The gentleman seems to have supposed that the government has fulfilled its stipulations with those States by the construction of the Cumberland road. This is at least a technical exposition of the compact with those States. It may be a literal fulfilment of the contract, but surely the object intended, is not only left unaccomplished, but it is scarcely half done, if we stop at the Ohio river. The gentleman seems to think it sufficient to connect the waters of the Potomac and the Ohio; but the one of these streams is not navigable, and, in the other, navigation is suspended for a considerable portion of the year by ice. The great object contemplated was to connect the frontiers of the country with the seat of government—the extremities with the heart of the body politic. This cannot be accomplished till the extremities are reached; but, if we stop at Ohio, we reach but a very small part of the line which leads to them.

As to the other view presented by the gentleman, I am yet more opposed to it. Sir, if we are to wait till the whole United States has been explored, and every connecting ligament by which its parts may be united shall have been measured and examined in detail, we shall have to wait to a remote posterity. Sir, I need no survey to tell me that the contemplated road from this city to New Orleans can be made. I know this already, from the analogy of other cases. No person will deny that the object can be accomplished; the only object of survey is to ascertain the best route and the probable cost. There can, then, be no need of waiting till the whole Union shall have been surveyed. The gentleman from Mississippi seems to insinuate that, by beginning as is now proposed, the force of union, among the friends of internal improvement, will be broken, and that, in future undertakings, they will lose the aid of the Western States, because the objects desired by those states will then have been secured. Sir, I cannot subscribe to such a sentiment. I will never allow myself to indulge such an opinion. I could not, for instance, refuse to the state of Delaware to subscribe to

the canal between the Delaware and Chesapeake until every other canal shall have been surveyed and laid out, from a suspicion that Delaware will afterwards refuse her aid to carry them into effect. Much less can I consent to suspend a road which ought, as soon as practicable, to be pushed to Missouri. The gentleman's next objection is to the character of the two per cent. fund which was reserved by the act of cession. I did doubt, at first, whether this fund was perfectly under the control of the United States; but my doubts have since been removed, and I am satisfied that Congress can apply that fund, with or without the consent of the States from which it arises. The question is, Whether we shall now appropriate what is necessary to carry on that road, or wait until that fund shall become sufficient for that object? Sir, I would not wait, but would pursue the policy already sanctioned by our own legislation.

Another objection urged was, that the Cumberland road had cost \$13,000 per mile, but gentlemen should remember through what sort of ground that said road has to pass; that it crosses the ridge of the Alleghany Mountains, and that, through its whole extent, the surface over which it passes consists of alternate mountain ridges and deep valleys. But where the contemplated road is proposed to run, there is not one mountain in its whole extent; the country is entirely different; there are a few sharp hills and a few valleys. But I am authorized in saying, that the road will not cost more than between four and five thousand dollars a mile. As to works already begun, the objection as to waiting for the several systems does not apply. It has weight only in a question respecting beginning a new work in a new place. Will any gentleman think of stopping, on such an argument, the Delaware and Chesapeake Canal? And if a war were at our threshold, would any gentleman hesitate as to continuing the Cumberland road? He believed not one. And he was sorry to hear the importance of a general system of Internal Improvement, pleaded as an objection to an internal improvement of so much importance as this.

Mr. JENNINGS asked the indulgence of the committee a few minutes. He said that, since the committee has refused to amend the bill, by striking out the section which contained a pledge upon the two per cent. fund of Indiana and Illinois, for the repayment to the Treasury of the United States, of the money, the appropriation of which was now contemplated, he would give his reasons why he should be compelled to oppose the passage of the bill. In the discussion of this subject, the construction of the compacts between the United States and the states Northwest of the Ohio river, had been introduced, and which, if the construction of those instruments by some gentlemen, were to be considered as correct, would tend to confirm the pledge; which, by an act of the 3d March, 1819, Congress had imposed upon the two per cent. fund of Indiana and Illinois, for the reimbursement of \$250,000 appropriated to complete the Cumberland road to Wheeling.

The gentleman from Mississippi, if he understood him correctly, concluded that the power of Congress to control the two per cent. fund of those states, was a general power, which could be exercised at pleasure, so far as it regards the local expenditure of this fund. If the gentleman's conclusions were correct, that the original intention of Congress was to unite the navigable waters of the Atlantic with those of the Ohio river, and none other, why should the compact made by the United States with the state of Ohio, provide, that this fund should be applied, under the direction of Congress, to making roads, not leading from the waters of the Atlantic to the Ohio merely, as the gentleman seemed to suppose? But the compact provides that the fund shall be expended in making roads from the waters of the Atlantic—"to the Ohio, to the said state, and through

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the same." The compact provides, moreover, that "the consent of the several states through which the road shall pass," shall be obtained previous to making such road. I would ask, Mr. Chairman, *what road?* If the whole of the two per cent. fund of Indiana and Illinois has been rightfully pledged, and if so, correctly expended, in the construction of a road to the *Ohio river*, as gentlemen contend, what has the consent of the states west of the Ohio to do with, and what bearing can such consent have upon, the operation which shall take place under the appropriations of this fund? I admit that Congress has the power to appropriate the two per cent. fund of Indiana to making a road through the state of Ohio to the state of Indiana; but I deny the right of Congress, although the power has been exercised, to apply the two per cent. fund of Indiana to the making a road from the navigable waters of the Atlantic to the Ohio; and I shall not, therefore, give my vote for the appropriation of money, which carries with it a pledge upon the two per cent. fund of Indiana, until this road is located, at least, to the Mississippi river. The seat of government of the state which, in part, I have the honor to represent, is located permanently, and this road, if ever we are to have one, will pass through its site. But this road can be located only by the authority of Congress. In the prosperity of the Capital of the state, the citizens of Indiana have not only an interest, but an interest which involves the value of real property, to a considerable extent; but she has no control, nor is her interest in having this road located, to be regarded by the provisions of this bill. That it was the original intention of Congress that this road should be located, opened, and constructed, to the state of Missouri, so far as the fund might be adequate to the object, I have no doubt; and that it was equally the intention of Congress that the two per cent. fund of Ohio should be expended in making a road from the Atlantic waters to the said state; and that the two per cent. fund of Indiana should be expended in making a road through Ohio, to Indiana, and that of Illinois, in like manner, through Indiana to Illinois. But the constructions, and the character of the road contemplated to be constructed by the provisions of this bill, will expend every cent that may hereafter accrue, before this road, such as it is intended to be, shall reach the seat of Government of Ohio; and thus the location and opening of this road through Indiana will ultimately have to depend upon the bounty of Congress, instead of resting upon the compact. That the original intention of Congress comports with the construction of those compacts with the United States, and "the several states through which the road shall pass," which I consider correct, is evinced by the course adopted by Congress, under whose authority Commissioners were employed, a few years since, to locate this road through those several states. And why this measure on the part of Congress, if the constructions which have been given to the compacts be correct? The state of Indiana, in accepting the conditions offered by Congress, as an equivalent to her renouncing any right to tax the lands of the United States, &c. placed a value on this fund, and it formed no unimportant part in the aggregate consideration, which induced the state to enter into a full execution of the contract on her part. But the disposition which has been, and is now proposed to be made of this fund, is, in effect, to destroy the just expectation of the state in relation to it; and, while I admit the power of Congress to pass this bill—the previous pledge of which has been imposed upon the two per cent. fund of Indiana, when the appropriation was made in 1819, to complete the Cumberland road to Wheeling, was as much a pledge upon that fund, for making a road to any or all the states bordering upon the shores of the Ohio and Mississippi rivers, as it was a pledge to redeem an appropriation made for the construction of a road leading to Indiana. He regretted

that the construction of those compacts had not been more generally examined than he supposed they had, and he could not view the effects produced or to be produced by constructions which had been given to them, as tending to any other result, than a violation of the contract on the part of the United States with the state of Indiana.

Mr. BUCHANAN, said, that, since the adjournment of the House last evening, he had turned his attention to the compact between the United States and the state of Ohio, and he believed if the committee would indulge him for a few minutes, he could clearly explain its character.

By the terms of the original compact of 1802, five per cent. of the net proceeds of the lands within the state of Ohio, were to be applied "to the laying out and making public roads, leading from the navigable waters emptying into the Atlantic, to the Ohio, to the said State, and through the same; such roads to be laid out under the authority of Congress, with the consent of the several states through which the road shall pass."

It is clear, then, that the compact gave to the United States exclusive authority over the application of the whole of this fund. The objects upon which they were bound to expend it, were of a two fold nature. The first, roads leading from the Atlantic waters to the State of Ohio; and the second, roads leading through that State.

The people of Ohio believed, that the portion of this fund which was destined to the construction of roads within their state, could be more judiciously and economically expended under the authority of their own Legislature, than by the General Government. In this opinion, they were certainly correct. They, therefore, asked Congress to grant them this privilege, and in pursuance of their request, an act was passed on the 3d March, 1803, directing the Secretary of the Treasury to pay to the state of Ohio three per cent. of the five per cent. fund, to be applied by their Legislature "to the laying out, opening and making roads, within the said state, and to no other purpose whatever."

Thus it will be perceived, that the five per cent. fund, which had originally been placed under the exclusive control of the General Government, was separated into two parts. The two per cent. of it was retained by Congress, to be applied to the construction of roads between the Atlantic waters and the state of Ohio; and the remaining three per cent. was given to the state of Ohio, at its own request, to be expended in making roads through that state. It is, therefore, manifest, that, since 1803, the United States have never been bound by the compact, to make any roads within the state of Ohio. That obligation passed from them to the Legislature of the state, and three-fifths of the whole fund was granted to them, to enable them to fulfil it. Out of this fund the state of Ohio, previous to the 24th January last, had received the sum of \$287,543 94. With what degree of force then, or even plausibility it could be contended by gentlemen, that Congress are bound by the compact to make this road within the state of Ohio, Mr. B. said, he would cheerfully leave for the committee to determine.

Mr. B. said that the next subject of inquiry to which he wished to direct the attention of the committee, was, the manner in which the United States had executed the portion of the trust which remained to them. Have they faithfully applied the whole of the two per cent. which they retained, to the construction of roads between the waters of the Atlantic and the state of Ohio? The amount of it which had resulted from the sale of lands in that state, prior to the report from the Treasury during the last session, was \$187,786 31, and from Indiana, Illinois, Missouri, Mississippi, and Alabama, \$71,623 11. The aggregate is \$259,409 42,

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Congress have expended upon the Cumberland road about \$1,700,000, or nearly seven times the amount of the two per cent. fund of all these states. They did not stop short at a literal compliance with the terms of the compact; but have greatly transcended them, and acted with the utmost liberality towards the western people. That fund has been already pledged to us for the repayment of more than \$1,400,000. No gentleman on this floor can, for a moment, suppose that we shall ever receive from it any thing like this amount. In order to realize such a supposition, lands within those states must yet be sold to the amount of \$70,000,000. Yet, notwithstanding, the present bill pledges this very fund to reimburse the expense of continuing the Cumberland road from Canton to Zanesville. It is certainly idle and absurd for us to place a pretext so flimsy before the public, in any act of legislation. Gentlemen who advocate this bill should at once abandon its defence upon the ground of the two per cent. fund and compact, and support it upon the principle that it is an internal improvement, which, independently of these considerations, should be undertaken at this time by the General Government.

Mr. B. said that, as he had risen only to advance his ideas respecting the compact with Ohio, and the manner in which the United States had executed their trust, he would no longer, at present, press himself upon the attention of the committee. He would merely state as a fact, in conclusion, that the construction of the Cumberland road had cost more than \$13,000 each mile.

Mr. ROSS, of Ohio, then rose, and said, that the exposition given by the gentleman from Pennsylvania, of the three per cent. and the two per cent. fund, was a very correct one, and he recapitulated in substance the history of those funds in respect to the state of Ohio. Thus far, he observed, there was no dispute. Now, in the act to admit the State of Indiana into the Union, we find precisely the same expressions as in the act to admit Ohio. Five per cent. of the sales of the public lands is reserved for the construction of roads *to and through* Indiana. If this reservation of two per cent. is appropriated to roads *to* Indiana, (the same as for roads to Ohio,) and the three per cent. is placed under the control of the Legislature of Indiana for roads *in* that state, (the same as for roads in Ohio,) Mr. R. expressed himself not a little surprised that the gentleman from Indiana, (Mr. JENKINGS,) should be opposed to the present bill. It is a strict compliance with the compact of the United States, that two per cent. should be spent on a road leading *to* the State of Indiana. The remaining three per cent. had, from time to time, been drawn from the Treasury by that State for roads within her own limits. But the two per cent. is placed by the compact at the absolute discretion of the General Government. The present road may indeed go *through* the State of Ohio, yet it leads to Indiana. The compact does not say that the General Government shall bring a road *to the line* of that state; if the road were in Kentucky or in Virginia, and yet led to Indiana, it would be sufficient under the compact. Some gentlemen object to the object, because, at the last session, Congress voted a general system of Internal Improvement. But there must be some starting point in carrying that system into effect. And there will be precisely the same difficulty after the survey is made, as there is now; for gentlemen surely do not seriously mean that the General Government is to undertake, simultaneously, roads and canals over all the United States. Here is a beginning made: sixteen hundred thousand dollars have been laid out upon it; the surveys are made; a random line has been run from Wheeling to the Mississippi. A road from Wheeling to Zanesville has been laid out and actually begun. This is not an exception to a general system of Internal Improvement. It happened to be commenced before that system was adopted. Yet it is a link in the same chain.

But the gentleman from Pennsylvania insists that Congress, by what it has advanced on the Cumberland road, has fully complied, and more than complied with its contract with Ohio. But, sir, I ask, was that road made for Ohio alone? Has not the very state which that gentleman represents, with so much benefit to it, and so much credit to himself, has not Pennsylvania enjoyed the same benefit from it as Ohio? I believe facts will prove that it has enjoyed greater. Nor Pennsylvania alone—Virginia, too, has received a kind blessing from the same source; so, in a degree, has Delaware also. In fact, sir, all the states of this Union have, to a certain extent, participated in the benefit; so that, as far as the argument of the gentleman is intended to shew that the General Government has fulfilled its contract to Ohio, it is of no force. I might indeed say, the Government has fulfilled its contract to itself and to the country. Pennsylvania, rich, populous, and flourishing, enjoys the advantage of, he believed, about three thousand miles of good roads. The gentleman, therefore, is able to appreciate their value. He hoped that State would follow the example of Ohio and of New York. And if we extended our view to future times, he was persuaded it would be found there was not so great a diversity of interests between that state and her neighbors, as some of her citizens seem inclined to suppose. He thought, upon the whole, that nothing could be urged conclusively against the present bill from the contracts of the General Government with the new states, nor from the advances on the Cumberland road, as if made for Ohio alone.

Mr. WOOD of N. Y. observed, that he deemed the proposition before the committee premature. That it was idle to say that the U. States were under any obligation to make the road in question. That the Government had agreed to expend two per cent. of the avails of the public lands on roads from the Atlantic to the Ohio; and, by the gentleman's own shewing, the Government had already expended more than that fund would amount to in many years. That the pledge was redeemed, the obligation cancelled, and that no claim on that ground could be sustained. The present application was, therefore, for a sum of money from the Treasury, to be expended on Internal Improvements. Sir, said Mr. W. Congress have not yet determined that they will adopt a system of Internal Improvements. At the last session they appropriated \$30,000 for the purpose of exploring the country, and having such routes for roads and canals selected, as should appear to be of national importance. That, when the report of the Commissioners appointed for that purpose should be made to Congress, the question would probably be determined. That, when that subject should be agitated, if it should be determined to embark in a system of Internal Improvements, several questions must be previously settled among them; one would be, to determine whether the money to be appropriated ought not to be apportioned among the several states according to their representation in Congress, to be expended under the direction of their respective legislatures, who were more competent to oversee such business than Congress, and better able to guard the fund from the impositions to which appropriations by Congress are liable.

If this course should not be adopted, the plan must be restricted to objects purely national; it was all important, therefore, before it was adopted, to have the report of the Surveyors and Engineers appointed at the last session, in order to judge what objects were of most national importance. That, from an inspection of the map, it appeared that the proposed route from Wheeling to St. Louis, run nearly parallel with the Ohio, and no great distance from it; that the Ohio and Mississippi afforded much greater facilities for transportation than any road could afford; that the road could not be of much national importance either for military or com-

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mercial purposes; that it might be more of a national object to open a road from the Ohio to Chicago, at the south end of Lake Michigan; and from thence, to Prairie du Chien, where there were military posts, to which there was no communication by water but by long and circuitous routes. That he only stated this to shew, that, until the report of the engineers should be made, Congress were not prepared to judge what were eligible routes for roads or canals, and any undertaking, before such information should be received, and before Congress should determine to embark in a system of Internal Improvement, would be premature.

Mr. P. P. BARBOUR rose, and said, that he was not about to enter at large into the question before the committee, but merely to state a few facts, which might have a bearing upon it. He was aware that the motion yesterday made to strike out that part of the bill which goes to pledge the two per cent. fund, had, at the present sitting, been decided in the negative, and that all arguments or observations in favor of such an amendment would now be out of order. But if, said Mr. B. it is in the contemplation of Congress to commence a great system of Internal Improvement, (for which, however, in any shape, I cannot go, as being opposed to the principle,) it seems to me that the object now presented is as much entitled to favor as almost any other that can be mentioned. He should, indeed, be obliged to vote against the bill, and would do so, even were it for the sole benefit of his own constituents. Yet still he thought the object as good as any other. The measure, however, ought at once to be put (where the gentleman from Ohio had candidly placed it) on the footing of an absolute appropriation, not to be returned from any fund whatever. The pledge was all out of the question. Congress has the direction of two per cent. of the proceeds of the sales of public lands in the northwestern states, for the purpose of making roads leading to those states. It has expended somewhere about \$1,800,000. Now this is two per cent. on ninety millions of dollars. It would be found that the whole sales of lands in the northwestern states, up to 1819, fell short of \$27,000,000, of which less than \$17,000,000 had actually been received. Here, then, was the Government in advance two per cent. on ninety millions, and not seventeen millions realized yet. Surely, it was vain to talk of any hope of reimbursement from such a fund. Let us not, said Mr. B. hold out a false and delusive hope. Commending the candor of the gentleman from Ohio, (Mr. BERKELEY,) in placing the subject at once and avowedly upon its real ground, Mr. B. expressed a hope that, when the bill came into the House, the clause containing this pledge would be stricken out. And he concluded with repeating that, did not his views of constitutional restrictions prevent him from voting for any appropriation for Internal Improvement, he should certainly vote for the present bill.

Mr. COOK said he concurred with the gentleman from Virginia, (Mr. BARBOUR,) in his opinion of the degree of favor with which this measure should be viewed. But he could not concur with him in the views he had submitted in relation to the fund that Congress had pledged to the states west of the state of Ohio. He rose to explain more fully than had been done, the nature of this pledge, and to repel the construction which had been put on the compacts that Congress and those states had entered into. In 1802, Congress passed a law authorizing the people within the territorial limits of the state of Ohio, to form a constitution and become an independent state. In the same act, it was provided that five per cent. "of the nett proceeds of the lands lying within the said state, (Ohio,) sold by Congress" from and after a day specified, should be applied to laying out and making roads leading from the Atlantic waters to the Ohio river, and through the state of Ohio. Subsequently, with the assent of Ohio, a change was made, limiting this fund to two per cent. Mr. C. said it

must be obvious that nothing more was contemplated by this act than a pledge of the funds arising from the lands sold within the state of Ohio. In 1816, Congress commenced its legislation on the subject of the Cumberland road specifically, and the money appropriated by the act of 1806, for this road, was to be paid, first, out of the fund reserved in the act of 1802, and secondly, if that proved inadequate, out of any unappropriated money in the Treasury. This provision for drawing the money from this specific fund, raised from the sale of lands lying within the state of Ohio, and to make up any deficiency in that fund from the public Treasury, is a legislative exposition of what Congress meant by the act of 1802. The language of the act of 1802, however, is so explicit that it will admit of no other construction. Subsequent to 1806, and, almost annually, down to 1819, Congress had made appropriations to complete this road, sometimes repledging this Ohio fund, and, at others, making naked appropriations only. During this period, Congress had admitted Indiana, Illinois, and Missouri into the Union, under stipulations and agreements such as Congress itself had proposed, and, amongst other things, it had been agreed, that two per cent. of the moneys arising from the land sales in those states should be expended, under the authority of Congress in making roads leading to those states respectively. This stipulation, however, was of a conventional character. It was a consideration paid by Congress for the exemption, on the part of those states, of the lands to be sold by the United States, from taxation, for five years after sale. At the time of these compacts, then, Congress had almost completed the Cumberland road, and no pledge had ever been made, of any specific fund whatever, to refund the money to the Government, except the Ohio fund. In 1819, however, after the admission of these states, and after the ratification of these solemn compacts, which are based upon the principle of a *quid pro quo*, and under which the Government had agreed to lay out this fund in making roads leading to those states respectively, Congress pledges this very fund to repay to the Treasury nearly two millions of dollars, which had been previously expended on the Cumberland road. Mr. C. would submit it to the good faith, and if it might not appear offensive, he would say, the common honesty of the House, to say, whether such a pledge were not in violation of those compacts?

The right to make this pledge, as has been argued, springs out of the act of 1802. I have shown that that act looks alone to the sales within the state of Ohio. But you did not, at that time, own Missouri. She was then in the hands of a foreign power; and yet, it is also contended that her fund is also to be pledged to redeem this Cumberland road debt.

Mr. C. said, the states west of the Ohio supposed they were making a fair bargain, and that each party meant to execute in good faith what was promised. If that were done, he thought no doubt could remain as to the illegality of the pledge of 1819, which applied this fund to redeem the Cumberland road debt. Arguing, then, on that supposition, he should proceed to state his views in relation to the measure before the House.

He had shown, on a former occasion, that this fund would, in the progress of time, yield a sum exceeding two millions of dollars—a sum that would be adequate to make this road. The Government now owned almost boundless tracts of land in the west. Its value is to be increased in proportion to the facility of settling it. This road will lead to it, and consequently increase its value. The country is remote from the great scenes of business and markets, and will be greatly benefitted by this road. Inasmuch, then, as it is calculated to advance the primary interests of the Government, as well as to increase the affections of a large portion of our people for the Government, and so greatly serve their interests, Mr. C. said he should vote for the appropriation. But he

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should, at the same time, insist, as a condition on which his vote ultimately would depend, that there should be some clear and distinct assurance given, in the bill, that the road was to be continued to the states west of Ohio.

It had been argued that this measure was premature. This prematurity, said Mr. C. is discovered too late. Congress, four years ago, after much grave and solemn debate, appropriated ten thousand dollars to mark and locate this road. It was done with a view to its speedy completion. It was *then* thought proper to commence, and the people of the states particularly interested, although too patriotic to be clamorous on account of the delay, have felt that their expectations have not been met in the spirit which raised them.

Perhaps it may be said, that the measure of four years ago was designed merely to pacify and appease an idle whim of the West. Congress, I trust, does not legislate on such principles, and, for one, I am sure that measure was founded on no such consideration. The people of the West do not believe it. They have a better opinion of the candor and integrity of this body.

Mr. C. thought this road had nothing to do with the great system of internal improvement that had been spoken of, so far as related to the mere appropriation of money to make it. It stood on different ground. It was a *promised* road, and the only question to be settled was, *the time of meeting that promise*. That had been settled, and wisely settled, four years ago. It was then settled that we will *now* go on with it. We will go on with it, while the country, through which it is to pass, is too poor to make it, and whilst we (the United States) have property to a large amount that will be increased in value by it. This having been the policy adopted four years ago, he hoped it would not now be abandoned.

The public domain, said Mr. C. is pledged to pay the public debt. In pursuance of that pledge, Congress had frequently adopted measures to accelerate its sale. None can more contribute to that object than this road. It will, it must, be the great highway to most of the emigrants from the states north of Virginia to the states of Ohio, Indiana, Illinois, and Missouri. You will, by affording this facility to them, act in the spirit which produced much of your former legislation. You will lessen the expense of emigrating, and, by that amount, increase the means of the emigrant to purchase your property, and comfortably to settle himself.

Mr. M'DUFFIE then rose, and said, that he now perceived the question before the committee was a question of direct appropriation for a road. If the arguments of the gentlemen from Indiana and Illinois were correct, (and certainly those arguments presented matter of grave consideration,) the two per cent. fund of those states cannot be appropriated to the present object. It follows, that the two per cent. in Ohio alone can be appropriated to it. No one can deny that the whole of this fund has been expended. So far, then, as the arguments of the gentlemen prove any thing, they shew that what is required, at present, is an absolute appropriation of money from the Treasury. This point being settled, he would say a few words on the measure, as constituting a part of the general system of internal improvement. Such a system, Mr. M'D. observed, must be formed and conducted on national principles. Yet, it was unavoidable, in the nature of things, that, in the prosecution of it, certain parts of the country will be benefited more than others. The question then arises, how shall we proceed? I answer, in the first place, with the utmost caution. If we act otherwise, and through haste, ignorance, or oversight, shall fail in any great work we undertake, we shall occasion a reaction which will go far towards destroying the system; and he would put it to the friends of internal improvements, whether it will be advisable to run any risk of such a result? He was, therefore, opposed to acting on the system, till a general view had been presented to Congress of the objects to be attempted.

As to the claim of the West on the National Treasury, he should only say that that Treasury never contributed any thing worth naming, for the purpose of internal improvement, for the advantage of any other state than Ohio. What, asked Mr. M'DUFFIE, are the national works which have been done by the General Government? This road was certainly the chief, and he had almost said, the only one—two millions had been expended upon it. There was also some small appropriation for the improvement of the Ohio and Mississippi rivers. I, said Mr. M'DUFFIE, belong to a state which, on this subject, has fair claims on the Government, yet I do not now solicit any thing on her behalf. We are told that, because the work has been commenced, we must therefore go on with it. But, sir, said Mr. M'DUFFIE, I argue in a manner directly the reverse. I do not think because we have done something for one part of the Union, we must, therefore, do more for it. The work, I acknowledge, is an important one; but other objects are important too. The population of the new states is comparatively sparse; and we are asked to neglect the denser population of the Union, for their benefit. I do not think the object proposed, has any peculiar claim, at this particular time. Before he sat down, he would state what were his general views on this matter. It appeared very clear that, for at least ten years to come, all the surplus revenue of this country would be exhausted in paying the public debt—and, from the character and well known wishes of the nation, he presumed that it must be the great object of the next administration to pay that debt. There could be but a small surplus left to be applied to internal improvements—sufficient, however, to defray the expense of all the requisite previous measures. All the surveys could be made, various routes explored, and the comparative expense of different projects ascertained. Then the nation would know precisely what was the work before it. Nor was it more than proper that ten years should be consumed in preparing to accomplish so great a system, on the safest and most solid grounds.

Mr. CLAY now rose, and, expressing a desire of presenting to the committee his views on the general subject, requested, as the hour was late, the indulgence that the committee would rise. The committee rose accordingly, and obtained leave to sit again.

#### HOUSE OF REPRESENTATIVES.—FRIDAY, JAN. 14. CUMBERLAND RIVER.

Mr. REYNOLDS, of Ten. submitted the following resolution for consideration:

*Resolved*, That a committee be appointed to inquire into the expediency of appropriating a sum of money not exceeding ——— dollars, for the purpose of improving the navigation of Cumberland River, in the state of Tennessee.

The resolution having been read—

Mr. REYNOLDS addressed the chair as follows:

Mr. Speaker: Should it be in order, I will briefly submit to the House my views on this subject. We have been engaged, yesterday and the day before, in discussing the bill to extend the *Cumberland Road*: the object of the present resolution I have submitted is to improve the navigation of *Cumberland River*. But, before I proceed, allow me to say, that I lament much, indeed, at the course the debate has taken on the extension of the National Road; and, without entering into the merits of that discussion, it is to be regretted, that the subject of those reservations and conditions of state rights ever had been introduced into the bill; for, it is evident to my mind, from the discussion already had, without particularly examining the statutes, that the per centums stipulated by those new states arising on the sale of the public lands, were certainly intended for the internal improvement of those states, and not for national purposes. In my humble opinion, sir, it would have been more preferable to have asked, by the bill on your table, an



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appropriation for the object contemplated by the bill. Permit me, also, to state, that it is much to be regretted that any allusion has been made to the general appropriations made for the benefit of the country heretofore. Sir, the Northern and Eastern parts of the Union are much older than the West. The great population and situation of the country commanded the resources of the nation. And there are many expenditures of the public purse, of the nature of things, that will always be confined to those regions, such as building public ships, erecting forts on the Atlantic board, and on the Pacific Ocean, in those independent states that will spring out of the Oregon territory. For my part, sir, when a national object is necessary, and ought to be carried into effect, I shall not stop to inquire whether the money is to be expended on the South or the North side of the Potomac. In a republic like ours, forming a grand confederated Union, the important inquiry is, Has the measure called for, a tendency to promote the interest, honor, and happiness of the nation? Then, I trust, as we have not had occasion of having much of the public moneys distributed in the internal improvements of the West, I still will rely on the justice and magnanimity of the *good old thirteen states*, in enabling us to carry on our national improvements in the Western states.

It will be recollected, Mr. Speaker, that, at the last session of Congress, a bill was introduced to improve the navigation of the Mississippi river. To that bill it was my intention to have offered the present proposition as an amendment. But, knowing how much the whole Union is interested in the navigation of that grand river, and, lest the great object should be defeated by adding too many amendments of the kind, I did, at the request of some of my friends, and particularly my honorable friend from Kentucky, (Mr. HENRY,) who so ably advocated the bill, abstain from offering the amendment, but with the express determination of presenting it to the House at this session. The bill passed, and is now a law of the nation, by a handsome majority.

It may be objected, Mr. Speaker, that Cumberland river is too local for the General Government to take it into the estimate of a general system of internal improvements. But, gentlemen have only to look at the map to see the great and central position of that noble stream. It is navigable about two or three hundred miles and upwards, and meanders a country of from four to five hundred miles. The country is remarkably fertile and healthy. It is the grand high road for the great body of the population of West Tennessee, in the transportation of their produce to the great emporium of the West, New Orleans; and, besides, it is equally claimed and enjoyed by a very important and interesting region of the Union, I mean that part of Kentucky known by the name of the Green River Country. This is a part of the republic very extensive, fertile in the extreme, and capable of sustaining an immense population. But to the Union, the river Cumberland is interesting in many points of view. The great water powers for machinery on the rivers and branches emptying into it are immense, and will, at no distant day, command the attention of the enterprising manufacturer and agriculturist. We have men of great public spirit amongst us, but there is a vast outlet for more. There are, in the vicinity of those streams, mountains of iron ore, which are inexhaustible, and of a quality equal, if not superior, to any in the United States. Sir, the boasted county of Cornwall, in England, cannot produce better iron. And, besides, the fertility of our soil is such, that hemp, tobacco, and cotton grow in great perfection. The House will perceive, then, without any comments from me, the great importance of this river to the United States.

But, Mr. Speaker, this is not all. It is, at this moment, of deep interest to the great and patriotic state of Pennsylvania. There are now, I expect, from ten to fifteen steam boats running regularly between Nashville

and the city of Pittsburg, and from Nashville to New Orleans, at all seasons that the waters will admit of it. This is not all, sir. This stream will be of great importance to the flourishing state of Missouri, and all other states that may border on that great river, Missouri, in consequence of the article of cotton. With those important states of Ohio, Illinois, and Indiana, our intercourse and trade will be greatly facilitated. And when the great canal, now in contemplation, unites the Potomac river with the Ohio, it will open new resources and advantages to Maryland and Virginia, and will afford a direct communication by water with us. And the time is not far distant, sir, when the great and powerful state of New York, will, by her great resources, and her astonishing progress in internal improvements, show to this Union the necessity as well as policy, in a political and commercial point of view, of uniting, by canals, the great northern Lakes with the Mississippi river. Then, sir, as one of the Western States, in point of trade, we shall be united with the Northern, Southern, bordering on the Gulf of Mexico, Eastern, and Middle states. It will then be no uncommon event to see the hardy and enterprising sons of the North and East peaceably exchanging with the people on the banks of Cumberland every manufactured article of luxury and comfort, for the raw material, when, in all probability, the old world may be deluged in all the horrors of war, and all communication cut off betwixt us and them, perhaps forever.

But, Mr. Speaker, there is still another topic connected with this subject, and, I trust, the House will allow me briefly to state it. There is on one of the streams of Cumberland, called Harpeth river, one among the finest sites for a national armory in the United States, and, perhaps, in the world. The stream is large and bold. The country around it, to a great extent, abounds in the finest forest, and there is no end to the ore in its vicinity. Besides, I have been lately informed that stone-coal has been found in the same neighborhood; and the country is considered very healthy. This great and celebrated site is only twelve miles from the mouth of this river, and can, with a trifling expense, be made navigable always when Cumberland is navigable. Indeed, when the latter river rises, the back water nearly reaches the site. The navigation of Cumberland from the mouth of this river is as good as the Ohio. The great impediment to the navigation of this important stream is what is called the Harpeth Shoals, above its mouth, which is much against the flourishing town of Nashville, and the upper country. I think, however, that 20,000 or \$30,000 will be a sufficient sum to remove every obstruction in the river, high as Carthage.

Mr. Speaker: When we look at the happy medium in which West Tennessee is situated, as it regards climate, soil, and health, and when we consider there is all the great materials for the establishment of a great armory on this interesting stream, there is another consideration of great moment. These water courses rarely, if ever, are frozen in winter. How important to the Union will it be, in case of a war, that we can, in the dead of winter, at a moment's warning, transport our arms and munitions of war to the seat of war in a campaign to the South. This is a consideration that ought to have weight with every gentleman who may have to act finally on this subject. For my own part, I do not hesitate to pronounce it the most eligible situation in the United States. Is it not remarkable, Mr. Speaker, that those Commissioners have not yet made their report on this subject? We were informed by the gentleman from Ohio, (Mr. BEECHER,) that it would be delivered to this House in six or eight days. It is now more than two weeks since the gentleman moved to lay my resolution on this subject, on the table. From a letter I have received from Pittsburg, and the session going off rapidly, I shall take the liberty of calling up the resolution on tomorrow. At all events, if it is not our good fortune to

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have the armory where nature has pointed it out, I still hope, however, that the Government of the United States will enable us to improve Cumberland river; and if we are not allowed to furnish our armies with arms and munitions of war, yet I trust our citizens in Tennessee will be enabled to mingle their laudable efforts with their brethren of other Western States in supplying our armies, when the case may happen, and the city of New Orleans and Louisiana with the products of our land.

Sir, I was highly gratified to hear, the other day, from an honorable gentleman from Virginia, (Mr. MERCER,) and who is a member of the Committee on Roads and Canals, that it is contemplated, by that committee, to offer to the House a general system of national improvements. Hoping, most sincerely, that they will take my proposition into consideration, I shall take the liberty now to move that the resolution lie on the table for a few days.

The resolution was then ordered to lie on the table.

The resolution offered by Mr. WARFIELD, calling for an account of real estate purchased by the United States, was taken up.

Mr. WEBSTER observed, that the resolution proposed an inquiry that would be attended with great labor, and he should be glad to hear some of the reasons which induced the mover to desire it.

Mr. WARFIELD replied, that the present resolution had in substance been offered by him at the last session of Congress—but too late in the session to obtain the report in answer to it. He had at that time explained his reasons, but perhaps the hon. member from Massachusetts had not been present—he would, therefore, now repeat them. He had taken the year 1776, as the period at which the statement was to commence, because he understood that previously to the adoption of the Federal Constitution, there were few cases of the purchase of real estate on behalf of the United States. Since that time, these purchases had been frequent, for the purposes of arsenals, forts, dock-yards, &c. In other instances, he believed the purchase had been made by consent of the states where the estate lay, and in other instances, without that consent. Where the latter was the case, he wished to ascertain by whom and to whom the title deeds had been executed—as, from information he had received, he was led to believe that, for part of the real estate in question, the United States would be found to have no valid title. It was certainly important to know what title the Government holds in its public property, and he did not suppose, after the House had once approved of, and adopted the resolution, its propriety would again be drawn in question: he had, therefore, not prepared himself to go into a detail in explaining it. The only reason he presumed that the information was not furnished at the last session, was, the late period at which the resolution was adopted.

Mr. WEBSTER observed, in reply, that the resolution would impose on the public officers a task of vast extent and labor; and he doubted whether so much was necessary, even for the object of the mover, as now explained. Would it not be better to confine the inquiry to those cases where he supposed that investments had been incautiously made, without calling for a detailed statement of all the purchases of real property by Government, for forty years back? He would not, however, directly oppose the resolution.

Mr. MERCER advocated the propriety and expediency of the resolution proposed. It might save trouble in future discussions, to have such a document to refer to. Had it been before the House last session when the survey bill was under consideration, or the bill for purchasing the lot at West Point, it would have saved much labor. It was desirable to know in what cases jurisdiction accompanied the property; and when it did not, where it was obtained with, and where without, the consent of the states. He did not think the task would

be so very difficult. In the compendium of the laws at the end of the first volume, there was a printed list which contained most of the particulars—he was persuaded it would be found very useful.

Mr. WOOD, of New York, believed that, three years ago, such a report had been made, and he moved to lay the resolution on the table.

The question was taken, and it was decided in the affirmative—ayes 72, noes 56.

So the resolution was laid upon the table.

#### CHESAPEAKE AND DELAWARE CANAL.

Mr. HEMPHILL moved to dispense with the orders of the day, for the purpose of taking up the bill "authorizing a subscription to the stock of the Delaware and Chesapeake Canal Company."

The motion was carried, ayes 92.

The House accordingly went into committee of the whole—Mr. TOMLINSON in the chair, on that bill.

Mr. HEMPHILL (the chairman of the committee which reported the bill) rose. He said, the committee would perceive that the bill, which was now submitted to their consideration, authorized a subscription in behalf of the United States for 1500 shares, which is equal to \$300,000, in the stock of the Chesapeake and Delaware Canal Company; the Government was to receive its proportion of the dividends, and the Secretary of the Treasury was to vote at any election for the Officers of the Company, according to the number of shares subscribed.

The importance of the question presented by this bill, said Mr. H., will, I hope, justify me in occupying the attention of the committee for a short time. The subject of this canal, and the proceedings connected with it, are, I know, very familiar to some of the committee, but there are others I presume, who are not so well acquainted with them; and, for this reason, I will take the liberty of giving as brief a history of the canal as I can.

Soon after the system of canalling became so universal in England, and the benefits of canals so generally known, a canal to connect the waters of the Delaware with the Chesapeake Bay was contemplated, and many surveys to carry this design into effect, were made antecedent to the Revolution; when Mr. Latrobe surveyed the route, which was, I believe, in 1816, he mentioned that 32 surveys had been previously made—and I expect that there had been 10 or 15 surveys and examinations of the grounds since that period.

The first Legislative step to effect the object was taken by the Legislature of the state of Maryland, who on the 7th of December, 1799, passed a law to incorporate a company by the name of the Chesapeake and Delaware Canal Company. This law proposed to cooperate with the states of Delaware and Pennsylvania; and these states, impressed with the importance of the subject, not only as it regarded themselves, but in its relation to the nation at large, did not hesitate to act conjointly with the state of Maryland, and they respectively passed laws to accomplish the object of a water communication between the waters of the Delaware and Chesapeake Bay. On this subject eleven laws have been enacted; but it will not be necessary for me to detain the committee by referring to them, except so far as to exhibit their leading provisions. The acts of the respective states authorized the opening of books for subscriptions to the amount of \$500,000, in shares of \$200 each; and incorporated the subscribers with ample powers to locate the route, to acquire the title to lands in the states of Maryland and Delaware, through which it should pass, and to cut and finish the canal, and to keep it in repair forever.

The necessary regulations for the payment of tolls were prescribed by the respective acts. And it was stipulated, that the canal and works, when completed,

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should forever thereafter be esteemed and taken to be navigable, as a public highway, free for the transportation of all goods, commodities, or produce whatsoever, on payment of the tolls imposed by the acts, and that no additional toll or tax whatever, for the use of the water of the canal, and the works thereon, should, at any time, be imposed by all or either of the said states. Other arrangements took place between the states, some of which not bearing directly on the canal project, need not now be mentioned. I will refer to one which may be of importance, as connected with the prosperity of the canal: By the first Maryland act, of the 7th December, 1799, there is a provision that the act should be of no force or effect until a law be passed by the Legislature of Pennsylvania, declaring the river Susquehanna to be a highway, and authorizing individuals or bodies corporate to remove obstructions therein, at a period not exceeding three years, from the first day of March, 1800. A law to this effect was passed by the Legislature of Pennsylvania.

The acts contain the usual provisions for the election of a President and Directors, for the transfer of the stock, the collection of the tolls, and the payment of dividends; and also authorizes the Company to increase the subscriptions whenever necessary.

By virtue of the laws of these three states, a company was legally incorporated, who, in April, 1804, after causing many surveys to be made, located the canal in favor of what was called the Upper Route from Welsh Point to Christiana; the Elk river, with the resources of Christiana and White Clay Creeks, were supposed to contain a sufficiency of water.

The waters of the Elk river were purchased, including the route of the feeder and the necessary lands; and the work to construct the feeder, commenced on the 2d of May, 1804; and was earnestly prosecuted during the years 1804-5, when a failure of funds compelled the Board, after the expenditure of about \$100,000, to suspend the whole undertaking. The cause of this disaster is difficult now to trace; the Stockholders failed to pay their instalments, owing, in a degree, perhaps to the investments of their funds in the numerous Banks and Insurance Companies that were created about that period, which promised high and immediate profits; still the failure, it may be imagined, would not have occurred if the same practical knowledge and public spirit had existed then on the subject of Internal Improvements, which are now manifested almost every where.

The Company, being without funds, made applications for aid whenever there appeared to be any hope of success, to Congress and to the Legislatures of the states of Maryland, Delaware, and Pennsylvania.

The subject was introduced to the consideration of Congress, in 1806, by a memorial signed on behalf of the Company, which was accompanied by an able production entitled "Observations respecting the Chesapeake and Delaware Canal."

Favorable reports, in the Senate, were made in 1806, '7, '9, '12 and '13, illustrating the great importance of the subject, and the advantages to be derived to the General Government, by a water communication from the Delaware to the Chesapeake Bay.

It was recommended to grant to the Company certain quantities of land, from which source funds could be raised to complete the work; and, to this effect, several bills passed in the Senate—one in the session of the tenth Congress, and two in the eleventh Congress.

The House of Representatives have also had the subject under consideration, at different terms, from the year 1806 to the year 1824, and many resolutions have been adopted, and several committees to whom the subject had been referred, respectively reported bills to the House to authorize the subscription of stock. Bills of this description were reported in 1812, '13, and '18, and the bill now on the table was reported at the last

session. In the mean time laws have passed favorable to the canal, in the states of Maryland, Delaware, and Pennsylvania.

On the 18th of December, 1812, the Maryland Legislature enacted a law, the preamble of which I will be allowed to read—it is as follows: "Whereas, during the time of war against the United States of America, the completion of the work of the Chesapeake and Delaware Canal would be greatly beneficial to the United States, by forming the great link of an inland navigation of six or seven hundred miles, and, thereby establish a perfectly safe, easy, and rapid transportation of our armies and the munitions of war, through the interior of the country, and which would ever tend to operate as a cement to the union between the states; and, whereas the prosperity and the agricultural interest of the state of Maryland, the Commonwealth of Pennsylvania, and the Delaware state, are more deeply interested than their sister states, in the useful work of opening a communication between the Chesapeake Bay and the river Delaware, by means of the said Chesapeake and Delaware Canal—therefore, in order to enable the President and Directors of the said Canal to prosecute and finish the important work, be it enacted, &c."

The first section of the act authorized a conditional subscription, on the part of the state of Maryland, and declared that if the United States should subscribe seven hundred and fifty shares, the Commonwealth of Pennsylvania three hundred and seventy-five shares and the state of Delaware one hundred shares, in the Chesapeake and Delaware Canal Company, in such case, the Treasurer of the Western Shore was authorized to subscribe, in behalf of the state of Maryland, two hundred and fifty shares.

On the 25th of March, 1813, the Legislature of the state of Pennsylvania passed a law similar to the law of the state of Maryland, and embraced the preamble in full. It authorized a subscription to be made, on the part of Pennsylvania, of 375 shares, if the United States should subscribe 750 shares, the state of Maryland 250 shares, and the state of Delaware 100 shares.

These laws never went into operation, as the United States and state of Delaware did not subscribe; and the project rested for a considerable time. In 1822, great exertions were again made, to revive the company, and to acquire new information and new subscriptions; and, in the year 1823, acts were passed, by which subscriptions, to the amount of \$25,000, were obtained from the state of Delaware \$50,000 from Maryland, and \$100,000 from Pennsylvania, and new private subscriptions were made to the amount of \$325,000.

The whole ground was again explored, and every means taken to acquire the best information, at an expense of about \$10,000; all which was submitted to the Board of examining Engineers, composed of General Bernard and Colonel Totten, of the United States' Engineer Department, and Judge Wright and Mr. White, two civil engineers. These engineers unanimously determined on the route, in their opinion, the most eligible, beginning on the Delaware river, near Newbold's Landing, where an artificial harbor and tide-lock must be provided—the canal to be cut through St. George's Meadows to St. George's Dam, there to be lifted by a lock of eight feet; thence through St. George's Mill Pond, through the dividing ridge of the Peninsula, and through Turner's mill, to a lock of six feet fall at Turner's mill-dam; and thence, along Broad and Back creeks, to a tide-lock, near the mouth of Long creek. This report of the route, was unanimously adopted by the President and Directors of the Chesapeake and Delaware Canal Company. The canal is to be sixty feet wide at the water's edge, thirty-six feet at the bottom, and eight feet deep, and fourteen miles in length. It is sufficient for the passage of our coasting vessels, and will accommodate itself with the Dismal Swamp Canal.

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It is intended to create an artificial harbor on the Delaware, adjoining the canal, for the reception and protection of vessels. The execution of the work has been placed under the superintendence of Judge Wright, an engineer justly celebrated, and who has already performed the most eminent services to his country, by the practical and successful part he has taken in the execution of the greatest works in America.

Contracts for the entire excavation of the canal have been executed. The land and water works on the whole line have been secured, and the work actually commenced on the 15th of April, 1824.

The excavation and embarkment, on the eastern division of the canal, amounts already to 714,930 cubic yards, and, on the western division, to 158,806, making, in the whole, 873,796 cubic yards. This is equal to about thirty-seven miles of a canal of the usual dimensions.

On the section No. 5, on the deep-cut, which is to be seventy feet deep, the excavation amounts to 668,704 cubic yards; and three of the sub-contracts are finished to the depth of twelve feet, in a style, it is said, which is not inferior to any work of the kind in Europe. In this portion of the canal, more earth will be removed from the same extent of surface, than has ever been done in any part of the world.

The Delaware tide-lock, which is a hundred feet long, between the gates, and twenty-two feet wide, and containing 40,000 cubic feet of solid masonry, is already completed.

During the last summer months, there were from 1000 to 1200 men employed, and about 200 teams, and many machines, which were invented by one of the contractors, for the purpose of excavating the St. George's Meadow.

The memorial presented by the Company, represents the available funds at \$700,000

It is made as follows:	
New private subscriptions	\$425,000
Subscriptions by the state of Pennsylvania,	100,000
Do. by the state of Maryland	50,000
Do. by the state of Delaware	25,000
Old subscriptions, calculated at	100,000
	----- \$700,000

The estimate of the whole expense, by the examining engineers, amounted to one million three hundred and fifty thousand dollars. The contracts for the whole line, however, have fallen above \$100,000 under the estimate. This will leave about \$550,000, say \$600,000, for future subscriptions.

These are the circumstances under which the canal now presents itself, and I cannot but consider it of the highest concern, in a national light, that a second failure should not occur in the grand design of connecting the waters of the Delaware with the Chesapeake Bay, or that any unfortunate delay should take place in the prosecution of the work; it would! dishearten spirited individuals, and produce an unhappy effect on the contemplated improvements of the country. Nothing is now wanting to insure success, but a participation on the part of the General Government, which will create an entire confidence, that the undertaking will be accomplished in a seasonable time; for, when the opinion is firmly established that no casualty can be expected to impede the progress of the work, there will be no difficulty in raising more funds by private subscriptions. That the work will be finished, at some time a rational doubt can no longer be entertained; still, it may be apprehended, by many, who otherwise would be induced to subscribe, that a dependence on private subscriptions would be too precarious, and that the work may again be suspended, and the stockholders deprived, longer than they could afford, of a return of any profits from their investments. To remove suspicions of this

kind, whether well or ill founded, it is exceedingly desirable that the General Government should countenance the measure, and thereby dispel all fears as to its speedy completion. This great national undertaking can be finished in two seasons, if nothing should obstruct the progress of the work. As to its magnitude and great importance to the nation, in a time of war, is unnecessary to speak at large. As a military work, it will be equal to any fortification that has been erected, and on which so much money has been expended.

The Atlantic coast is extensive, and, at many places, exposed to an enemy in possession of a strong naval force, and no improvement could be so well calculated to facilitate our military operations against an enemy, as an inland navigation, along and near the frontier, for the transportation of the army and heavy munitions of war, in safety, from place to place, and so expeditiously as to defeat the designs of the enemy.

In the documents presented to Congress by the Chesapeake and Delaware Canal Company, it is stated that General Washington, in the Revolutionary war, often lamented the want of a navigable canal from the Chesapeake to the Delaware.

The difficulties of transporting his supplies across the Isthmus are said to have been exceedingly great, and nothing was more distressing than the detention to which he was subjected, when he arrived in the Isthmus, on his march to the south, for the want of wagons to transport his stores and heavy artillery from one water to the other.

Had a water communication existed, a landing of the British at Welch's Point, previous to the battle of Brandywine, might, it is very probable, have been defeated; and the same observation may apply to the predatory excursions of the enemy on the shores of the Chesapeake, and along the Susquehanna during the last war. The canal would also afford great facilities for the protection of this city.

During the last war, the carriage of goods, tobacco, flour, cotton, and other bulky articles, across the Peninsula, made it necessary to use four distinct lines of transportation, at an expense of wagonage which has been estimated at 414,000 dollars in one year -- about a third of the whole expense of the canal.

As to its advantages to the country in times of peace, it is impossible to form any just estimate. The vessels which will be adapted to the canal can also pass through the Dismal Swamp canal, and will form a line of water communication that will embrace a wide and extended range of interests, from North Carolina to Trenton, on the Delaware, including the towns and landings on the rivers and waters of the state of North Carolina, emptying into the Albemarle and Pamlico Sounds; and, also, the numerous rivers of Virginia and Maryland, and the river Susquehanna, which empty into the Chesapeake Bay. And, at no distant day, it may be expected to form the central link of a grand inland navigation, of an immense extent, along and near the Atlantic coast.

The position and variety of public advantages to be derived from the canal, are satisfactory that it is not to be an object exclusively belonging to one or a few states; and if money should be appropriated for the general purpose of internal improvements, to be distributed among the states according to the ratio of representation, it would not be fair that the parts allotted to Delaware or Maryland, should be expended on this canal. Many of the states would be more benefited by the canal than Delaware, through which it principally passes.

A system of internal improvements, which will operate advantageously to the General Government, and in a just proportion to the states, can be established; but, from the geography of the country, there are certain objects of improvement which more peculiarly concern the United States, and these must be perfected principally

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pally by the Union at large; they cannot be embraced in any uniform system. Such cases are not numerous, but I think this is one of them.

It is an object of a general character; it is truly national; it resembles the navigation of the Ohio and Mississippi rivers, in whose streams twelve or thirteen states are interested, and yet no one in a degree sufficient to induce it to undertake the perfection of the navigation of either of these rivers.

The objects being considered of a national character, the General Government has commenced the performance of these great improvements, and, I believe, to the entire satisfaction of the nation.

Besides, the canal is so constructed, that, if the General Government should hereafter wish it, the canal, by the simple operation of being cut deeper, may be made capable to admit the passage of large merchant vessels, or ships of war.

I will not pretend to give any estimate of the probable profits to the stockholders; but, comparing it with other canals, which in their infancy yield handsome profits, and considering the extensive country, and numerous towns, and increasing trade, that will be connected with it immediately, and the far more extended range which it may embrace hereafter; when other contemplated canals in Jersey and other places shall have been made, it is not extravagant to put down the profits of the canal at a sum exceeding the legal rate of interest. The New York canals, as appears by the late message of the Governor of that state, have surpassed the expectations of their most zealous advocates. What, then, is asked of the General Government? Nothing, in substance, but its good will. It is solicited merely to countenance this great undertaking in the manner proposed, by which, as a stockholder, it will lose nothing, but, in a national point of view, will reap many and important advantages.

I have heard it mentioned in conversation, and it may be asked again, if the stock is likely to become lucrative, why do not the citizens of Pennsylvania, and of Philadelphia in particular, fill up the subscriptions? I answer, in the first place, that it is not certain that they will not, if means cannot be obtained elsewhere. In the second place, I beg leave to inform the committee that the citizens of Philadelphia have invested about seven millions of dollars in public improvements, and it cannot be expected that they can undertake to complete every public work, although it may be profitable. Pennsylvania has constructed about 18,000 miles of turnpike roads, and made numerous and expensive bridges, and has improved the navigation of the Schuylkill, and is now embarked extensively in canalling.

But this particular object, as I have already mentioned, is not exclusively a state object. The Legislature of Pennsylvania, and the citizens in their individual capacity, have done their share. Still, more may be expected from them to aid in the completion of this important work.

Against bestowing the countenance of the Government in the manner proposed, there is no constitutional objection, upon any of the principles heretofore assumed as to the powers of the General Government.

On the subject of the Bank of the United States, it was insisted, on the one side, that the General Government could not create a corporation; but no such power is claimed here, the corporation being created by competent state authorities.

The improvements on the Ohio and Mississippi have commenced without any co-operation of the states, but, as respects this canal, the consent of the states has been given. There is nothing that can leave a doubt as to the powers of Congress to act on this occasion. It is embraced within the construction given to the constitution by the President, in his communication respecting the Cumberland road.

And, as to the expediency of a Government becoming a stockholder in a corporation, experience has shewn that it is highly beneficial, and attended with no inconvenience. The practice of the states is full proof of this. In many instances, they encourage spirited individuals, by creating corporations, and subscribing as stockholders.

Pennsylvania has repeatedly subscribed for stock in banks, bridges, and state roads; the result has been useful to such improvements and advantageous to the state.

In my introductory remarks it has been one main object, to give a history of the proceedings concerning the canal, and in the conclusion of the little I have had to say, I come now to one consideration of the subject which I dread the most. It is the danger that amendments may be proposed, by even the friends of the general measure, to embrace other objects, and so to load the present bill as to cause a failure of the whole, without its being so designed. This has been the fate of the measure heretofore. I will, however, indulge the hope, that the public feeling which generally exists in favor of internal improvements, and the improved state of experience as to the practicability and utility of public works in this country, will induce honorable members to permit the question to be taken on this bill upon its own merits, and not to expose it to any unnecessary risk.

It is really distinguishable from any object that can be named, inasmuch as the work is partly executed, and as no further information is necessary, no State laws are to be obtained, and its national importance is so apparent that no one can deny it. If the General Government is seriously disposed to aid, in certain instances, the internal improvements of the country, no spot could be selected freer from objections, for a beginning.

I think I have good reason to anticipate a favorable result in this respect from the laudable disposition that prevailed in Congress at the last session, when the bills to improve the navigation of the Ohio and Mississippi rivers were under discussion. No member, that I recollect, attempted to carry with those bills, other favorite objects of his own. They were fairly considered on their respective merits alone.

The object of this bill, it is true, lies near those I represent, but since I have had the honor of a seat here, I have been uniform in giving my support to the internal improvements of the country. I have, on no occasion, refused to vote for any measure of improvement, because it was not connected with something near home; and the same spirit appears to have animated the members generally, at the last session.

I have been induced to make the remarks which I have done, respecting any amendments to connect the bill with other objects, although a little out of place, because I have understood that, in this way, this interesting project had often been defeated.

In introducing this bill to the consideration of the committee, I have abstained from any remarks on the general subject of improving a country by canals, and will now only observe that, in very many instances, they have entirely changed the appearance of the country through which they pass, by giving to its interior parts, in a great degree, the advantages of coasts, and bringing the whole country into a sort of compactness that cannot be accomplished by any other means. They conquer the inconveniences that naturally exist between the extreme parts of a nation, and, by the facilities which they always afford they excite industry, in a most surprising manner.

Our greatest difficulty is to begin, and that has been the case in most nations; and this seems strange to me, for, as soon as public works are executed they are considered the highest blessings that can be bestowed on a country, and the authors of them go down to posterity with more lasting glory than could be attained by any



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other public acts. The credit now depends on the actual execution, the science on the subject being so well known.

Some imagine that the nation is too young. No opinion can be more fallacious. On this head, I was pleased with a remark of the Abbe de Pradt, on the Colonies. In speaking on the age of a nation, he says it does not depend on time, it is on the resources and population of the country—and I will add to his sensible remark, that it may depend also, in a degree, on the enterprising character of the people. Ten millions of people are capable of performing all the important interests of a nation.—This ought not, on subjects of this description, to be considered a young nation.

The New York works are a complete and satisfactory answer to any objections made in respect to the age of the nation. We have ocular demonstration of the immense works that have been accomplished there in a period of seven or eight years; and I will ask, has any of the other concerns of the state or the nation been neglected on that account? It is true, that state is in debt for nearly the whole expenditure—but would any man in the state give up the canal to be free of the debt? Not one. Now, the General Government can do the same things on a still greater scale: and why should not the same results follow? In ten years, the whole face of this country might be changed. Gentlemen talk of the national debt—but what is a debt of eighty or ninety millions to such a country as this? Had the system of internal improvements been commenced long ago, the value of the country might have been doubled at this day—nor would it have involved the sacrifice of any other interests, to promote internal improvements, as the example of New York, already quoted, has plainly demonstrated. I sincerely hope, Mr. Chairman, that we shall now make a beginning. I am well convinced the spirit of the nation is on this subject in advance of Congress—and I am equally persuaded that, if a beginning is to be made, no spot could be selected freer from objections, than that in which the canal has been commenced, which it is the purpose of the present bill to aid.

The committee reported the bill without amendment, and the question being on ordering it to be engrossed for a third reading, Mr. COCKE called for the Yeas and Nays on that question, which were taken as follows:

YEAS.—Messrs. Adams, Alexander, of Tenn., Allen, of Tenn., Allison, Bartley, Beecher, Blair, Buckner, Cady, Call, Cambreleng, Campbell, of Ohio, Cassidy, Collins, Condict, Cook, Cushman, Durfee, Dwight, Ellis, Foot, of Conn., Forsyth, Forward, Gatlin, Gurley, Harris, Hemphill, Herkimer, Holcombe, Ingham, Isaacs, Johnson, of Va., J. T. Johnson, F. Johnson, Kent, Kremer, Letcher, Little, Livingston, M. Arthur, M'Kean, M'Lane, of Del., M'Lean, of Ohio, Mallary, Martindale, Matlack, Mercer, Miller, Mitchell, of Penn., Mitchell, of Md. Moore, of Ken. Neale, Newton, Owen, Patterson, of Penn. Patterson, of Ohio, Plumer, of Penn., Reynolds, Sandford, Scott, Sharpe, Sloane, Wm. Smith, Standefer, Sterling, J. Stephenson, Stewart, Storrs, Swan, Thompson, of Penn., Tomlinson, Udree, Vance, of Ohio, Van Rensselaer, Vinton, Warfield, Wayne, Webster, Whitteley, James Wilson, Wilson, of Ohio, Wolf, Woods, Wright—86.

NAYS.—Messrs. Alexander, of Va., Archer, P. P. Barbour, Bassett, Bradley, Buck, Burleigh, Campbell, of S. C. Carter, Carey, Clark, Cocke, Conner, Crafts, Craig, Crowninshield, Culpeper, Day, Dwinell, Eddy, Edwards, of N. C. Findlay, Floyd, Foote, of N. Y. Frost, Garrison, Gist, Govan, Hall, Hamilton, Harvey, Hayden, Herrick, Hobart, Hogeboom, Hooks, Jenkins, Kidder, Lathrop, Leftwich, Lincoln, Litchfield, Livermore, Locke, Long, Longfellow, M'Coy, M'Duffie, Mangum, Marvin, Matson, Morgan, Nelson, O'Brien, Olin, Reed, Richards, Rose, Ross, Saunders, Sibley, Arthur Smith,

Spaight, A. Stevenson, Stoddard, Taliaferro, Tattnell, Taylor, Ten Eyck, Thompson, of Geo., Tracy, Tucker, of Va., Tucker, of S. C. Tyson, Vance, of N. C. Whipple, Whitman, Williams, of N. Y. Williams, of Va. Williams, of N. C., Wilson, of S. C., Wood—83.

So the bill was ordered to be engrossed.

IN SENATE.—MONDAY, JAN. 17, 1825.

#### IMPRISONMENT FOR DEBT.

The engrossed bill "to abolish imprisonment for debt," was again read; and, on the question "Shall this bill pass?"

Mr. VAN DYKE, of Del. rose, and addressed the Senate as follows: Having been a member of the Committee charged with the consideration of this bill, I have candidly lent my aid to remove objections which applied to it as introduced by the gentleman who has been its zealous advocate. The project now presented is preferable to that which received the sanction of this honorable body at the last session; but it still presents difficulties that are, in my judgment, insuperable. To abolish imprisonment for debt is the declared object of this bill; and to effect it we are urged to adopt and put in motion all the new machinery of this new system. New oaths, new trials, new proofs, and a strange commixture of law and equity, are the means to be used to accomplish this object. From the best consideration that I have been able to give the subject, I cannot assent to such an experiment. The administration of justice between creditor and debtor, as now practised, is plain and familiar: where this innovation may lead us, it may be difficult to state; but one thing is not to be disguised; the creditor will be met with new difficulties and accumulated expense in prosecuting a claim for a just debt. And whence do you obtain satisfactory evidence that it is necessary for the good of the nation, that such a system should be adopted? From what quarter of the country have you received a memorial suggesting such a plan as that proposed by this bill? I have heard of none; and my own observation and experience, within the limited circle of a few states, induces a belief that the dreadful picture of oppression which has been drawn, in vivid colors, by the advocates of the measure, is a creature of the imagination, and has no existence in real life. I boldly say, the original is not found in the Middle States, and gentlemen, in whom I place confidence, assure me that it will be sought in vain in other states. As a legislator, I do not perceive the necessity for this measure. I apprehend serious difficulties in executing the plan, and therefore feel constrained to vote against it. I ask the Yeas and Nays, that I may record my vote in opposition to the bill.

Mr. TAZEWELL said his objection to the bill was, that its object was not to abolish imprisonment for debt in *all*, but only in certain *particular* cases therein described; that the cases to which the bill was not intended to apply, were those of contract, in the suits for the enforcement of which contracts *bail* had been originally required. In all such cases, the writ of *capias ad satisfaciendum* might still issue, even if this bill became a law. Now, said Mr. T. very many cases of contract broken, might, and must, be prosecuted, in courts of chancery only; and, according to the rules of proceeding in these courts, bail could not be required in any case therein instituted. The effect of the second section of the bill was, however, to prohibit the writ of *capias ad satisfaciendum*, and all other process under which the body of the debtor might be taken: *in all cases of contract* in which bail had not been originally required.—The provisions of the bill, therefore, were inconsistent with its object. The case of a lost bond was referred to as fully illustrative of this position. There could be no reason assigned why the debtor by bond which was not lost, might be imprisoned to satisfy the judgment of

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a court of law rendered for the amount of his bond; and that the debtor, where bond was accidentally destroyed, should not be imprisoned to satisfy the decree of a court of equity for a like sum. In either case, the obligation upon the debtor, and the rights of the creditor, after the judgment at law, or the decree in equity, were the same, and the same means of enforcing these rights, and the performance of these duties, ought to be allowed in both. But, under this bill, a difference, said Mr. T. is created, for which I can see no good reason.

Mr. JOHNSON, of Kentucky, said, that he was called upon, in consequence of the objections made to the passage of the bill, by the two gentlemen, from Delaware and Virginia, to vindicate the measure under consideration. It had been said, that we had not brought forward any cases of hardship which proved the necessity of this measure. Is it necessary to detain the Senate with the search after, and the reading of the jail records of the different states, or of the United States, to prove that he who has power in this respect will abuse it?—Human nature was too well known to require him to illustrate the principle; that equal and just laws were required to exercise the increase of inordinate passions.—The jail records of several states, at the last session, had been adduced and relied upon to prove the necessity of this measure. The fact was established, and the fact can be established, that there are unreasonable and unjust creditors, as well as fraudulent debtors; the bill was intended to restrain the one and to detect the other. The case of the debtor recorded in Holy Writ, who was forgiven his whole debt, and the next moment put violent hands on his debtor, and cast him into prison, was recorded to illustrate the disposition of man, and to show what he has done and what he will always do, when vested with power. If the gentleman from Delaware had the patience of Job, that patience could be exhausted by a recital of cases in which the same cruel and unfeeling disposition was manifested, and by which the misery of thousands had been increased, without any corresponding benefit resulting from such a course.

It has been said, likewise, that we had received no petitions from the people; that they appeared to be satisfied with the present system. Mr. J. inquired, if, in the discharge of our various and important duties as members of this body, it was necessary to be stimulated and goaded on by petitions from our constituents? He thought not. He believed the people would think with him on that point. But, if we look for the expression of public sentiment to respect it, he said, we have ample proof of the wishes of the people of the United States, on this interesting subject. At the last session, when a similar bill was adopted by this body, there was an expression of approbation from Maine to New-Orleans, from Boston to the Rocky Mountains, at least so far as we have an American population in that quarter. He would invite gentlemen to look at the public prints; and if that was any evidence of public feeling and public sentiment, and he believed it was, there was something like a universal approbation and congratulations throughout this vast republic at the mere prospect of passing such a measure. He invited gentlemen to look at the laws of Kentucky and North Carolina, which abolished imprisonment for debt. Were these communities less happy? Were they in commotion because of such a measure? He believed not, while thousands were saved from ruin by an unnecessary rigor in the collection of debts. He would venture to say, that, in those states, many sources of human misery had been dried up in consequence of it; and, the longer it existed, the more sacred and revered would be its principles; the transactions of men would be based more upon honor and common honesty, than upon the right to pursue a fellow man like the tyger his prey.

Mr. J. called the attention of gentlemen to the proposition, in Alabama, to abolish imprisonment for debt;

to the communications of the Governors of Louisiana, South Carolina, the Society in Boston and New York, relative to this subject; and having looked at these expressions of public opinion, let gentlemen, opposed to this measure, console themselves that the voice of the people has not called for it. The voice of the people is in its favor; and, sooner or later, he hoped that voice would be respected in every department of the government.

The gentleman from Virginia had objected to the bill, because, in some cases at common law, the defendant might be held to bail, upon certain conditions; and, in the same class of cases, when pursued in chancery, the defendant could not be held to bail.

Mr. J. said, he did not see any great force in the objection, because now the same practice universally existed, as he believed, in relation to proceedings at common law and in chancery. In many cases at common law, the party may be held to bail by the present system, yet, if he should be driven to chancery, he cannot hold the defendant to bail. If this was not the universal practice, he called on the distinguished member, who had acquired so much fame for his legal acquirements, to point out the state where a different practice prevailed, or where it prevailed in the United States' courts. He believed no attempt would be made to correct his view of this subject. If he was correct, then it followed, as an inevitable conclusion, that the objection was common to the existing system of civil proceedings, as well as to this bill, and, therefore, was no objection at all. If a good objection; why did not the objector, in this case, attempt to amend and provide a remedy for the mischief? But no such attempt was made, and if made, he presumed, would not be sustained by either side of the Senate.

Mr. J. called the attention of the Senate particularly to that part of the bill which preserved the writ of *ne exeat*, and authorized its use. It was a privilege given to a complainant in chancery to hold the defendant to bail, when he would make oath that he was about to leave the state in which he was sued, or upon stating the fact of his going beyond the jurisdiction of the court, by removing out of the United States. It is upon the very same principle that at common law we propose, by this bill, to hold the defendant to bail, and in no other case. Here, then, is that equality for which we contend.

Mr. J. inquired of the Senate, if it was probable that any measure of so much importance could ever pass without real objections? Those who contended for the abolition of imprisonment for debt, could not get as much as they wanted; those who opposed the principle, contended that we had gained too much. He did not doubt but that some real objections might be made to the bill, but he thought many more imaginary objections had been made than real ones. He inquired if there was a member of the body who would vote against a simple proposition to abolish imprisonment for debt? He presumed none would give such a vote. Yet, when we had presented a system the most perfect that the wisdom of both parties could devise, could the members of this body vote against it, and return to their constituents, and say, although we approved the principle, yet we could not muster wisdom, knowledge, industry, and experience enough, to give this principle a living form, by passing a judicious law upon the subject? He thought we could not say so, and satisfy our constituents.

Mr. VAN DYKE replied: It was not my intention, sir, said he, to enter at large into the discussion of the merits of this subject; nor shall I now do so. The few remarks which I submitted, were designed merely as an apology for requesting the Yeas and Nays on the final question, about to be taken. But, sir, it now becomes proper for me to say a few words in reply to the gentleman from Kentucky. That gentleman, with his usual zeal, has argued as if the rejection of this bill by the Senate gave the creditor a power to imprison, at his will

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and pleasure, an honest but unfortunate debtor. If that were the question, there would probably be no voice lifted up within these walls against the bill. No man would be more willing than myself to abolish imprisonment for debt, on such conditions, and under such provisions, as should oblige the debtor to make a full disclosure and surrender of his property for the use of his creditors. Such a provision prevails in most of the states, and relieves debtors under State Court process. Humanity would bind the creditor; honesty and justice would constrain the debtor to assent to this proposition. I am not one of those who would expect a poor man to pay his debts by going to prison; but I have seen enough of man to believe that, with many, who have the means, it requires something beyond persuasion to make them pay their debts. If, then, I am asked whether it is just that a creditor should confine the person of his debtor, who has committed no fraud, and is unable to pay? I answer, No; such conduct would violate the common principles of humanity, and would justly fix a stigma on the character of him who should evince so merciless a disposition. But, if I am asked, whether, under the idea of relieving an honest debtor, I am willing to adopt this system, by which a creditor who has loaned his money to a dishonest man, who, disregarding his promise, refused to restore it, though he has ample means to repay—shall be embarrassed in prosecuting his claim—be put to unnecessary expense, and be involved in endless litigation with such debtor? I answer, No. Those moral rules and precepts to which allusion has just been made, have no application to such a case; nor would I lend to such a debtor any facility to baffle his just creditor. But what does this bill require of every creditor against every debtor, before the debtor shall be put to the small inconvenience of giving bail, or, in plain language, entering into security, not for payment of the debt, but simply to appear and abide the judgment of the court?—Read the first section—two oaths, in the first instance, must be taken by the creditor—first, he must swear to the amount of his debt; 2dly, that he has reason to believe the defendant intends to remove, &c. The first may generally be in the power of the plaintiff to do, satisfactorily; but the second is too indefinite, in my opinion, to be made the subject-matter of a solemn oath.

Sir, I have a repugnance to the multiplication of oaths unnecessarily, in the administration of justice. They are traps for men's consciences, and have a tendency to lessen the reverence which ought every where to prevail, for that all-important and solemn obligation. What man, regarding his reputation, and possessing the delicate feelings of an honorable mind, would feel at liberty to take that oath, under the penalty which must immediately follow? Read the following lines: "on the return of the writ, the defendant may contest the allegations of the oath, in such form as the court may prescribe," &c. The tables are now turned, and the plaintiff is immediately to be arraigned before the court by his debtor, for swearing to what the debtor says is untrue, and this issue is to be gravely tried before the court; and the plaintiff must then make out, *by proof*, that he had reason to believe, &c. If he fail to do so, the defendant triumphs in his discharge. Sir, it is mocking a creditor to invite him to enter the lists with a cunning, fraudulent debtor, on these terms. However strong the belief of the creditor, he would be unwilling to engage in such a contest; and the consequence would be, that the fraudulent debtor would escape from the suit without bail, and, at the end of it, laugh at the vexation of his creditor. This is the operation of a part of the machinery to be put in motion by the bill to abolish imprisonment for debt. Unless my optics deceive me, every part of the system will be found to operate against the just rights of creditors, and to involve them in litigation and expense. Thus, by the fourth section, even after judgment, if plaintiff shall make oath that he has ground

to believe defendant has fraudulently concealed his property, another denial by defendant produces another trial; and if plaintiff fails to prove the allegation to the satisfaction of the jury, he must pay costs. These remarks on two sections of the bill, will, I trust, illustrate the proposition which I advanced, that the bill is calculated to embarrass creditors unnecessarily, and to involve them in new scenes of litigation with their debtors; and subject creditors to expense and cost, unprecedented in any court of justice in this happy country.

The objection stated by the honorable gentleman from Virginia, (Mr. TAZEWELL,) appears not to have been fully understood by the gentleman from Kentucky, or, if understood by him, I think he has not given a satisfactory answer to it. The gentleman from Virginia has justly remarked, that many claims on contracts for money were of necessity to be prosecuted in a court of equity—but for which this bill makes no provision for bail or security for appearance in any stage of the proceeding, and yet takes away process against defendant's person, after a final decree for payment of money, and thus leaves a creditor, suing in equity, without any means of compelling defendant to appear, or to pay the debt. This position is correct as the bill now stands, and, to remedy the evil, the complainant in equity must institute a new suit to obtain the writ *ne exeat*. Here, again, is further evidence of vexation and expense to the creditor. The gentleman from Kentucky, instead of meeting this objection, says, that bail is not now required in a suit commenced in a court of equity. In this he is correct; the first process in such a court is a subpoena or summons to appear and answer; but, after final decree for payment of money, according to the British practice, which prevails in many of these states, the process issues first, *in personam*, by writ of attachment, for contempt, in not performing the decree; and when defendant is thus brought into court, the judge has it in his power to compel the defendant to do what, under circumstances, may appear reasonable, and agreeably to equity and good conscience. This attachment process is taken away by the second section of the bill, and it would seem incumbent on its friends to account satisfactorily for this incongruity in their system, and explain how a complainant in equity is to recover his just debt in those states where the existing course after decree is attachment for contempt, in not obeying the decree.

Those views, sir, convince me that it will be unwise and inexpedient to disturb the relation between creditor and debtor, by such a system as that now proposed. A very short bill would, in my opinion, be sufficient to secure the personal liberty of honest debtors, who would surrender their property fairly to their creditors; such a bill I should cheerfully advocate: for that before you I cannot vote, with my present impressions of its injurious effects on society. The gentleman from Kentucky has boldly asked, whether, among the people at large there has been heard a dissenting voice since this measure was first moved in Congress? and whether all the newspapers have not advocated it in the strongest terms? I do not doubt that the public sentiment, if it could be obtained, would be in favor of discharging the honest debtor on the terms that I should propose. But I do not believe that one of a thousand of the people know any thing about the special provisions and complex machinery of this bill.

As to the newspapers, sir, I shall never legislate at their bidding. I prize highly the liberty of the press; its blessings are numerous and beyond calculation, and through the newspapers we derive many useful hints, and much valuable information upon all subjects; but I cannot take them as a standard for my judgment, standing as a Senator upon this floor.

I concede, sir, to the honorable gentleman, that his side of this question, as inferred from the title of his bill, "to abolish imprisonment for debt," may be the

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[Senate.]

popular side. It is that side on which many things may be said handsomely, and in a manner to please the public ear. It is easy to call a creditor "Shylock," and rattle the chains of the unfortunate victim of hard-hearted rapacity. This can be understood and felt by all. I shall not, therefore, enter the lists upon this topic, or dispute the palm of eloquence with that gentleman. But I will combat this bill with the weapons of calm reason; and, in answer to all the glowing descriptions of hardships and oppressions to which we have listened with deep and fixed attention, I ask, in what region of this free and happy land are those Shylocks found? Sir, my observation has convinced me, that a "Shylock," demanding the pound of flesh, or any character bearing the faintest resemblance to him, does not exist in this republic.

I know, on the contrary, that imprisonment of an honest debtor is of very rare occurrence. The man who would wantonly exercise his power to oppress an upright poor man, would be frowned down by the moral sentiments and humane feelings which pervade the community. No man who regards reputation will dare so to offend against the general feeling of the public. On the contrary, sir, I know, in some districts, an insolvent debtor must often tax the humanity of his friends to get into prison; and he generally effects his object the day before the meeting of the state court, to obtain a discharge as an insolvent debtor, which always follows in a few days, unless he be guilty of fraud. I do not differ with the honorable gentleman in his admiration of the moral precept inculcated by the divine Author of our faith, in the striking parable of the debtor, to which he has alluded. I differ from him only in his application of it to this bill, with which, in my view, it has no sort of connection. I have acted so frequently with the gentleman from Kentucky on this subject, said Mr. VAN DYKE, that his object is quite familiar to me. I know his humane feelings on this subject. He undoubtedly wishes to legislate the honest debtor out of his difficulties, and punish severely all attempts at fraud on the part of the debtor. I appreciate fully his good wishes to creditors, and his strong impressions in favor of debtors; but I cannot refrain from expressing surprise that such a bill should be so strenuously urged as a remedy for the evils of which he complains. Its great effect will be to increase litigation, and to embarrass creditors; and the execution of the system will create unnecessary delay and grievous expense to the parties.

Mr. MACON, of North Carolina, said that he should oppose any bill that deprived any man in the United States of a right; but did not understand how this bill would have that effect. This bill would be well understood, and would be taken into consideration in all contracts made after the 4th of July next; therefore, he could not understand that any right was touched by the bill. The law gave notice, and all persons making contracts after the time fixed by the law, would do so with their eyes open. They would know the remedy they must apply, and, therefore, on this point, no difficulty could possibly occur. Every body was agreed upon the abstract principle, that an honest man should not be imprisoned for debt, but objections were made to the details of this bill for its accomplishment. The real question, Mr. M. said, was, whether this bill was better than the existing system? The gentleman said that there were not many persecuting creditors; but if there were only ten in the nation, who thought they had a right to persecute, not to prosecute, he would endeavor to deprive them of that power. Creditors, somehow or other, generally contrived to find out the condition of debtors. There would be no more difficulty after this bill was passed, in ascertaining their condition, than there is now. No difficulty could, in his opinion, possibly arise. Mr. MACON concluded by saying, that he did not know what those, who were not professional men, were to do on this occasion, when the gentlemen

of the bar differed in opinion on the subject of the details of the bill. For his part, approving of the principle of the bill, he should vote with those who were in its favor.

On the question "shall this bill pass?" the yeas and nays were then taken as follows:

YEAS—Messrs. Barbour, Benton, Boulogny, Branch, Eaton, Elliot, Findlay, Holmes, of Miss. Jackson, Johnson, of Ken. Johnston, of Lou. King, of Ala. Lloyd, of Mass. Lowrie, Macon, Smith, Talbot, Taylor, Thomas, Van Buren—20.

NAYS—Messrs. Barton, Bell, Brown, Chandler, Clayton, Cobb, D'Wolf, Dickerson, Edwards, Gaillard, Hayne, King, of N. Y. Knight, Lloyd, of Md. McLean, Mills, Noble, Palmer, Parrot, Ruggles, Seymour, Tazewell, Van Dyke—23.

So the bill was REJECTED.

#### COLUMBIAN COLLEGE.

The Senate then proceeded to consider, as in committee of the whole, the bill for the relief of the Columbian College, in the District of Columbia.

Mr. LLOYD, of Maryland, in a few remarks, stated his objections to this bill. A statement of the facts by which the college had become debtor to the Government for the amount (\$25,900) proposed to be remitted by this bill had been made. By this it appeared, that the managers of the institution, for purposes not connected with the advancement of literature, entered into a speculation in which they were disappointed, and by which they incurred this debt. He, for one, would not make the Government underwriters for any speculators; and he therefore could not consent to release the institution, however friendly he was to it, and to the cause of education generally, nor did he think the Government could reasonably be asked for this donation in favor of an institution over which it had no control whatever, except the power of abrogating the charter, should the institution fail to be managed for the objects of its incorporation, &c.

Mr. JOHNSON, of Kentucky, defended, at considerable length, and with much earnestness, the reasonableness and expediency of the remission proposed by the bill; to shew that the purchase of the property was for the early operations of the institution, before its incorporation, &c. He, however, to satisfy the objections of others, moved so to modify the bill that the Government should retain the property for which the College incurred \$14,000 of the debt, remit that amount, and leave the remainder of the \$25,900 to be recovered from Thomas L. McKenny, whose debt the College had assumed.

Mr. HOLMES, of Maine, intimated some amendments which he wished to propose to the bill, and moved its postponement until to-morrow.

Mr. LLOYD, of Maryland, vindicated the course he had pursued in relation to this bill, in answer to Mr. JOHNSON'S remarks.

Mr. LOWRIE said, the session had now half expired, and the Senate went on every day postponing unimportant subjects until they would come to those which must be acted on. He hoped, therefore, as every member's mind was, no doubt, made up on this bill, which had been before the Senate now about ten times, that it would be finally acted on without further delay. As to the bill, he had been in favor of it; but, after the exposition of the facts which had been reported by the committee, his opinion had changed, and he must vote against it. At the same time, however, he avowed that, if the institution were to come forward with a simple request for assistance, he would grant it, as he thought it deserved aid, and could look for it no where but to Congress.

The question being put, the bill was postponed until to-morrow.

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## HOUSE OF REPRESENTATIVES—SAME DAY.

The House went into committee of the whole, on the bill to provide for the continuation of the Cumberland road, Mr. STERLING in the chair.

The question being for filling the blank for an appropriation with 150,000 dollars.

Mr. CLAY, (Speaker,) rose, and observed, that, from his attachment to that system of internal policy, of which the measure now before the committee formed a part, he had entertained a wish to offer to their consideration some views in relation to it which had forcibly impressed his own mind; but had he anticipated the state of expectation which it would be needless for him to affect not to perceive, or that debilitated state in which he now appeared before the committee, he should have contented himself with giving his silent vote in favor of the bill.

The object proposed, he said, involved a question which had often been debated in that House, and the general views of which were already so familiar to the minds of those whom he addressed, that he despaired of adding any thing to that knowledge of it which they already possessed. Indeed, he considered the views of policy which he held on this subject as having been vindicated and maintained by the votes of the House at the last session. Yet he would say thus much: that he considered the question, as to the existence and the exercise of a power in the General Government to carry into effect a system of internal improvements, as amounting to the question whether the union of these states should be preserved or not—a question which involved the dearest hopes and brightest prospects of our country. As to the opinion, that the carrying on of these improvements belonged to the states in their individual and separate character, it might as well be expected that the states should perform any other duty which appertained to the General Government. You have no more right, observed Mr. C. to ask the individual states to make internal improvements *for the general welfare*, than you have to ask them to make war for the general welfare, or to build fortifications for the general defence, because some of them may happen to have a peculiar local interest in either. They are no more bound to do any one of the duties which pertain to the General Government, than to do any other one of the duties which pertain to it. Sir, it is our province, not theirs. It is, indeed, true, that the interests of the whole and of one of the parts may be coincident, and sometimes to a very remarkable degree—nay, to such a degree as may induce a State Government to undertake a duty which more properly belongs to Congress. But such cases are rare, and such an effect has seldom happened. One instance, indeed, may be pointed out—that of the great Canal in the state of New York. When that state applied to this House for aid in her great and spirited undertaking, it was my opinion that she ought to receive it—and it is now my opinion that, for what she has advanced in the completion of that noble enterprise, she has at this hour a just claim upon the General Government. But cases of this kind always will be rare—it is vain to expect that any state will feel a sufficient interest in any object or improvement (unless such as are purely local in their character) as to induce her to make an appropriation of her individual resources for its accomplishment.

With these preliminary observations on the great policy of measures of the kind of that now proposed, he would go on to inquire in the first place, is the object in the present bill of sufficient magnitude to authorize an application to it of the resources of the nation? To answer this inquiry, the object must be considered, not as standing isolated and alone—but as constituting one link in the great chain of the Internal Improvement of the Union. What, said he, is the actual state of the facts? There now exists from the city of Baltimore to Wheeling, in the state of Virginia, an uninterrupted

line of turnpike road, extending to a total distance of two hundred and seventy miles; and there also exists a like line of road from this city to the same place, with the exception of one small gap between Montgomery Court House and Fredericktown. Taking its origin at the foot of the Alleghany Mountains, the Cumberland Road extends to the Eastern Bank of the Ohio a distance of *one hundred and thirty-five miles*. Of this distance eighty-five miles lie in Pennsylvania, thirty or thirty-five in Maryland, and the residue in Virginia—the entire work, from one end to the other, and through its whole extent, lying exclusively in the states East of the Ohio river. The proposition now presented to the committee is to extend this road from the West bank of that river to Zanesville, in the state of Ohio, a distance of *eighty miles*. If the proposition shall meet with the favor of Congress, the whole length of road from Baltimore to Zanesville will be 350 miles.

Mr. C. then remarked on the character of the country through which the contemplated road is to pass, which he described as containing a succession of hills, some of which might perhaps have been called mountains, but for the altitude of the neighboring Alleghenies—and which continue as far west as the Muskingum River, on the bank of which Zanesville is situated. There, or a little to the west of it, commences a level plain of an alluvial character, extending from the Muskingum to the Mississippi, a distance of four hundred and twenty miles.

The present proposition, Mr. C. said, was to be considered in reference, first, to what had been done, and second, to what remained to be done. The proposed part of the road must be viewed, first, in respect to one termination of the entire line which is at Cumberland, and then in respect to the other termination of it, which he trusted would one day be on the Missouri. It must also be viewed in reference to that branch of it, which he hoped, at no distant day, would pass through Kentucky and Tennessee, to Natchez and New Orleans, intersecting the great road, now proposed from the latter place to this city. It must be remembered, said he, that it is a part of a road which is to traverse nine States and two Territories; so that whether we look to the right or to the left, we find the interests of nine entire States and two Territories, all concentrated in the present design.

Here Mr. C. wished to be permitted to state one fact with which, perhaps, but few members of the committee were acquainted. A distinguished member of the other House had lately travelled in company with the Delegate from Florida, now on this floor, over the very route which was contemplated in this bill for the road proposed. They had found it, though somewhat hilly, free from any mountainous obstructions, and abounding in all the materials which would be required for construction.

Mr. C. next proceeded to inquire, whether the object, such as he had now described it, was not justly entitled to be considered a national object. Look, said he, at the effect produced upon the convenience of the whole country, from what has been already done. The usual space of time formerly required to go from Baltimore to Wheeling, was from eight to ten days—the time now occupied is three days. The effect of such a saving of time would readily be conceived. To this consideration might be added the advantage resulting from the investment of so much capital, and the expenditure of so much public money, in a region of country where both were so much needed. Settlements had been multiplied—buildings of all kinds erected—villages had sprung up as if by enchantment; and, to use the language of one of the gentlemen who had ably advocated the bill, the road resembled one continued street, almost the whole way from Cumberland to Wheeling. The effect had been a great addition to the value



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of property, and an important increase of the wealth of three states through which this great public work had been constructed.

It has been called, by some gentlemen, a Western road, but how could it be, a Western road, when not one foot of it lay within any one of the Western states, but the entire road, in all its parts, lay wholly in the Eastern states? The direct benefit, and much that was collateral, was felt by the three Eastern states where the road lay; the only benefit to the Western states was a mere right of way. All they enjoyed in the road was the right to pass over it to visit their brethren in the East, and to come to this Metropolis to mingle their counsels with their fellow citizens of the South and East—important benefits no doubt—but not such as ought to designate this road as a Western road. In fact, Mr. C. said, it was neither an Eastern nor a Western road, but partly the one and partly the other. The benefits derived from it were strictly mutual.

Mr. C. asked, if the United States were not under a positive obligation to extend this road? What was the history of this undertaking? It arose out of a compact between the United States and the state of Ohio, at the time that state was admitted into the Union, by which two per cent. of the nett proceeds of the sales of the public lands was to be applied to the making of a road leading to the state of Ohio. A similar provision was also made in the compacts, by which Indiana, Illinois, Missouri, Mississippi, and, he believed, Alabama, were admitted as states. It had been contended by some gentlemen, that the construction of the Cumberland road was a fulfilment of this compact on the part of the United States. This, said Mr. C. I deny utterly. I grant, indeed, that it is a fulfilment of the compact with the state of Ohio. The United States covenanted to make a road leading to that state. They have done so; and Ohio has no right to demand that the road should be carried one foot further. But the case is entirely different with the states beyond Ohio. They have a right, under their respective compacts, to demand a road which shall terminate at their limits—a road which shall be brought up to the boundary line of those states respectively. It is very true, that Congress may begin the road wherever they please, but it must terminate at the state to which Congress has covenanted that the road shall lead.

Am I not, said Mr. CLAY, arguing a question which is too plain to be illustrated? Can it be said, that Government has made a road to Missouri, when it has made a road which no where approaches Missouri within 500 miles? or, that it has made a road to the other Western states, when it has made one to a point 250, 300, or 500 miles from them? Gentlemen say, that a road has been made in that direction. It might as well be said, that the making of Pennsylvania avenue, in this city, was a fulfilment of the contract, or that the Government might begin a road in the remotest part of the East, and end it there, provided it had a western direction. He repeated, Government was not bound to spend more than the two per cent. under the contract—but the road must end at the limit of the states with whom the compact was made.

And here, said Mr. C. let me ask my worthy friend from Mississippi, (Mr. RANKIN,) whether he would consider a road ending at Wheeling as a road to Mississippi, because it leads, though obliquely, toward that state? I am sure he would not. He would say Congress had fulfilled its bargain only when the road terminated at the Mississippi.

It has been said, that the provision which pledges the two per cent. fund of the several Western states for defraying the expense of the Cumberland road, had been inserted in all the former bills on that subject. I admit this, said Mr. C. but I should never have given my consent to its insertion, had I not thought that it was under-

stood and agreed upon, as a part of the plan, that Congress should go on with the road, and carry it to all the states whose funds have been thus pledged.

On the question of the utility of the present undertaking, Mr. C. trusted he need say no more. He was happy, he said, to find that the worthy gentleman from Virginia, (Mr. P. P. BARNOUN,) who, to his great regret, could not, with his views of the constitution, support the bill, had declared, with that honorable frankness for which he was so eminently distinguished, that, apart from that view of the question, he should be in favor of the measure now proposed.

Mr. C. thought that the principle of preservation itself afforded sufficient argument in support of the measure now under consideration. He knew, indeed, that all questions which glanced at the union of the states, and the possibility of its severance, should be touched lightly, and with a cautious hand. But, if they were not to be discussed in that august assembly, where might they be? I, said Mr. CLAY, am not one of those who are in favor of covering our eyes, and concealing from ourselves the dangers to which we may be exposed. Danger, of whatever kind, is best guarded against when it is deliberately contemplated, and fully understood. It is not to be averted by shutting our eyes and ears against the possibility of its approach. Happily, there exist among us many great and powerful principles of cohesion—a common origin—common language—a common law—common liberty—common recollection of national glory. But, asked Mr. C. have we not seen, in at least one instance in history, that all these have not been strong enough to prevent a total and lasting separation. And, though causes of the opposite kind may not in our case go all the length of producing this, yet they operate on every natural tendency to separation. That such tendencies do exist, will not be denied by any candid and reflecting man, and they call on us to look far ahead, and to prevent if possible, the disastrous evil which they threaten. Among the causes which go to increase the tendencies to separation, in such a system as ours, may be enumerated the lofty mountains which separate different parts of our country—the extended space over which our population and government are spread, together with the different scenes to which commercial pursuits lead the citizens of different districts of the Union. Some of these are, indeed, beyond human control, but the effect of many of them may be, in a certain degree, corrected, if not wholly removed. The mountains may be cut through: we will teach the lofty Alleghany to bow its proud head to the interest and repose of our country. As to space and distance, they are terms wholly relative, and they have relation as much to the facility of intercourse as to actual distance of place. It will be the business of wise legislation, to correct the evils to which a sparse population exposes us. We have already seen what may be effected. A distance which formerly consumed nine days, (and in this I speak from personal knowledge, having passed the route in all conditions of the road,) can now be done in three. Wheeling is thus six days' travel nearer to Washington. So is St. Louis. So is every place West of Wheeling. If two places are twenty miles apart, and two other places are eighty miles asunder, and yet the distance between both occupies but one day, the two latter places, for every practical purpose, are as near to each other as the two former. And is it not the solemn duty of this House, to strengthen, by every means in its power, the principles of cohesion which bind us together—to perpetuate the union of these states, and to weaken and diminish, to the utmost of its ability, whatever has an opposite tendency? Can the imagination of man conceive a policy better calculated than that of which the present measure forms a part, to bring the opposite extremities of our country together—to bind its various parts to each other, and to multiply and strengthen the various and innumerable ties of

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commercial, social, and literary intercourse—in a word, to make of the various and wide-spread population of these confederated Republics one united people? It is true, that no efforts of the Government can altogether remove one effect of our local situation, which causes one part of our country to find its commercial vent in one ocean, and another in another. Yet, even this may be in part corrected, and one great advantage attending the proposed national highway—the formation of a part of which is contemplated in the present bill—will be its effect upon the commerce of the country. And here, said Mr. C. let me state one fact. If, at this moment, the alternative were presented to me, of a total exclusion of my state from all use of the Mississippi river for commercial purposes, or the same exclusion from the Atlantic states, I would, without hesitation, prefer the former, and I believe that the commerce, that now passes the mountains from the West, to seek its outlet on the Atlantic coast, is of greater value than that which passes down the Mississippi to the Gulf of Mexico—and this will be increasingly the case, if, as I hope, we are to have several different outlets like that which is now proposed. I beg gentlemen not to be alarmed. It is not my intention to ask for any further appropriations for this purpose, at least for some time to come, but we shall live, I hope, as a nation, as long as any other nation. I speak not of the works of one year, or of twenty years, but of those to which we may look forward, should our present state of peace continue. An appropriation of half a million of dollars annually would not be felt by a country like this, and yet it would effect every object which the friends of internal improvement propose to themselves or to this House.

But it may be said, Why should the General Government make a road for the state of Ohio? Sir, if this were a road for the benefit of Ohio, I would not ask an appropriation of a single dollar. Ohio has no such peculiar interest in this measure as would ever induce her to undertake to make this road. It is not a state road, but a national road, that is contemplated. It is not the duty of the state, it is your duty to make it. The route for the road passes through one of the poorest parts of the state of Ohio. Indeed, for sixty miles, it runs through as poor a country as I ever saw. Let me ask of the gentleman from Pennsylvania, Had this argument been used with respect to the Cumberland Road, would Pennsylvania have made that part of the road which now passes through her territory? Or would Maryland or Virginia have made what passes through theirs? No, sir! So far from it, that I am well satisfied, if that road were destroyed to-morrow, a part of the population of these states would heartily rejoice. The resources of Ohio are scanty, and she will not do that which you ought to do. Ohio will certainly be benefitted by this road, just as Pennsylvania, Virginia, and Maryland, are now benefitted by the Cumberland road. But these incidental advantages, resulting to Ohio, are not to deter you from performing your duty to the Union, any more than the incidental benefits of a fortification in any particular state should prevent the General Government from making the fortification.

Without troubling the committee with any further observations on the first branch of the subject, Mr. C. trusted he was authorized to say, that the present is an object of such importance as to be worthy of the application of the national resources.

He then proceeded to the second branch of the subject, and inquired, is this object a fit one to be pursued at this time? As an objection, it had been said, that this was an anticipation of a part of the *system* of Internal Improvement devised at the last session, and that the execution of that system ought not to be begun till the whole has been considered. But, in the first place, said Mr. C. I do not know that any general system of internal improvement has as yet been devised. The act of the last session was intended merely to collect informa-

tion, but did not give any authority to use or apply it in any general system of measures; and, if gentlemen are to wait till all the objects which may be proposed go on together, I will venture to say that the system of internal improvements will be postponed indefinitely. If any thing is to be done, we must select some object on which to begin. But, even on gentlemen's own ground, I contend that this measure is not in the least inconsistent with the act of last session. What was the object of that act? To obtain facts and collect information respecting objects of improvements where that knowledge was not yet obtained. But, with respect to this object, the information is obtained, the facts are known. Surveys and estimates have been made. The length of the road proposed by this bill is eighty miles. Its estimated cost is 450,000 dollars. The work is already begun—it is still in progress. A momentary pause has indeed taken place, but it is ready to proceed, and to be continued on the other side of the Ohio, as it has been finished on this side.

But we have been told that it is to be the policy of the next administration to pay the public debt; that it must be paid with as much expedition as is at all practicable, and that no part of the public resources are to be diverted to any other object. Sir, there is no member of this House more desirous to see the national debt paid than I am. I never was one of those who believe that a public debt is a public blessing. I have always considered it as a mortgage, dragging on our finances, and one which it was our duty to foreclose and pay off as soon as possible. Yet, we have also other duties. There are, indeed, some debts which we may not devolve on posterity—debts which spring from wasteful and ambitious wars—debts which have their origin in national luxury and extravagance. But there are debts of another description, which I feel no hesitation in devolving on posterity. I refer to a debt which carries the benefit with the burden. When we bequeath both together, posterity cannot equitably reproach our memory, because, while they bear the burden, they cannot but recollect that they are, at the same time, enjoying the benefit. But, sir, is there any proposition before you to create a national debt for internal improvements? What is the scheme proposed in the report lately laid before this House, by the officer who presides with so much ability over the Department of the Treasury, and which has received the approbation of the Committee of Ways and Means of this House? That officer tells you, that the public debt may be completely extinguished in ten years; that, by the year 1835, the last dollar of it will have been paid, and that all this time there will remain in the Treasury a surplus of three millions, applicable to any object within the constitutional powers of the General Government. The present bill cannot, therefore, be rejected from any want of means to carry it into effect. There is another view of the subject, not, indeed, contained in any public document, and which ought not to be, since it has not that entire degree of certainty which ought to accompany all documentary information. What is your source of revenue? It is consumption. And what are the sources of consumption? Population and wealth. Then, in a course of ten years, starting on any given tariff of duties, the increase of population will occasion an increase of the revenue of 40 per cent. at a ratio of four per cent. per annum. These truths are sufficiently obvious. It is said, indeed, that the policy that has been adopted for the encouragement of industry will diminish the revenue. But, when that subject was under consideration last session, I endeavored to show and I now repeat, that this cannot be the case. Different years will vary. In some, the revenue may fall short, but the redundancy of others will supply the deficiency. The measure of our export trade will always be the measure of our imports, and the measure of our imports will be the measure of our revenue. I hope, therefore, that

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the policy which was, at the last session, fixed upon, will ever be adhered to by this nation, as long as the course pursued by foreign nations shall render it necessary. On the whole, I think that gentlemen may calm their fears about the extent of the public debt. That debt is melting away before us faster, perhaps, than, for some of our financial interests, it might be wished. We have the prospect that it will be extinguished in ten years, and when we have paid this, we shall have fulfilled the whole of our duty in that respect.

But, if we are invited to the present measure, by the abundance of our means, are we not less so by a variety of other considerations? One of these is the cheapness of labor, greater, perhaps, at this time than ever before. Some gentlemen, indeed, spoke in the language of alarm about the vast expense of the Cumberland road. But, it must be remembered, that there were peculiar causes to produce that effect. The general aspect of the times, when it was constructed; the nature of the materials which were required for it; the difficulty in some cases of obtaining them; and the unnecessary number and extravagant price, of the bridges on that road, several of which cost forty thousand dollars each, and which are so numerous, that, upon one single creek, in a course of ten miles, there are eleven bridges, some of which cost \$20,000 a-piece. These, indeed, are beautiful specimens of architecture, surpassed by nothing which I ever saw, unless it be the bridge of Jena at Paris; but they have been also very costly. Under the circumstances, this was certainly a useless expense. I pledge myself, however, said Mr. C. that if Congress shall grant the one hundred and fifty thousand dollars estimated as the total expense of the road from Wheeling to Zanesville, nothing more shall be asked for bridges, or any other expenses, on that road.

An additional consideration in favor of this measure, Mr. C. said, was to be found in the pecuniary distresses of the West, which would in part be alleviated by the expenditure of the public money in that quarter, and which was certainly entitled to the parental consideration of this body.

Its being, then, a national object—an object which has been commenced—an object due by compact to the Western states—all these considerations united to call for the passage of the present bill.

As to commencing a general system of internal improvement, said he, if gentlemen can shew us any road beginning at the heart of the confederacy, of equal national importance, I for one, will heartily support it; but I believe there is not another object in which all these considerations unite. Why pause for what we do not want? For plans, estimates, and surveys, which we have already got? Why pause in prosecuting this object, more than in another—(the Delaware and Chesapeake Canal) a bill which I was delighted to see pass the committee to its third reading; and which I cannot doubt will continue its progress through the House with a still increasing majority. It has been said by some gentlemen in conversation, though not of a confidential kind, that the West ought not to have this bill, until other portions of this Union receive a simultaneous benefit. But I can assure gentlemen, there is no danger of undue appropriation in favor of the West. In a late report from the Department of War, a document consistent with the high character of that Department, and which bore the impress of the mind of its author, rapid yet correct, we are informed what objects are indicated by the Secretary of War, as more immediately calling for the attention of the General Government. They are only four. The canal to unite the Potomac with the Ohio, the canal round the Falls at Louisville, the canal round the Muscle Shoals, and the Cumberland Road. It is possible that for some, at least, of these objects, the National resources will never be appealed to. The state which I in part represent, said Mr. C., lately passed

a bill through one branch of the Legislature, to cut the canal round the Falls at Louisville, entirely from the state resources, and it is highly probable that that bill will pass the other House, and become a law. The number of objects, then, claiming immediate attention will be reduced to three. Of these the Cumberland road is certainly not a Western object, any more than the canal uniting the Ohio and Potomac. That canal is not located in the West, nor, on the other hand, is it exclusively an Eastern improvement. Like the National road, it is neither an Eastern nor a Western object, but one which belongs to the whole nation, and is calculated, in its effects, to cement the East and the West in bonds of an affectionate kind. Let me advert to one other topic, to which I refer, not for the purpose of exciting, but of allaying jealousy. It is to the small comparative amount of the public expenditures beyond the mountains. I do not say an equivalent is to be given to the West for the vast sums expended on this side upon the navy, fortifications, &c. No such thing. I know the disproportion results from local circumstances, not in the control of Government. Yet, am I wrong to say, that it forms an equitable consideration which addresses itself strongly to the feeling, to the justice, and to the generosity of Congress; all which cannot but induce them to correct, as far as possible, such a state of things, and make the balance of public benefits more equal whenever the opportunity is presented to them? I may ask with confidence, has the West ever acted on this narrow policy? Did it ever hesitate when the public wants required its aid? Did you ask for navies?—The moneys for building and equipping them were freely granted; and here I must be permitted to say, that, when the navy was friendless and forlorn, and I well knew that my vote in its favor would be no sooner given than denounced, anticipating the triumphs which have since wreathed with laurels the national brow, I personally risked every thing in giving my vote in favor of it. No, sir, there was no hesitation ever manifested by the West, in granting any appropriation, the object of which is clearly shewn to be the public good. Enquiry, it is true, is sometimes called for, but as soon as gentlemen from the West are convinced that the object is a good one, they give without hesitation. Do you call for war? A war to protect commerce? What was the conduct of the West? No seamen sprang from her bosom. They were dear to her indeed, as the sons of our own common country. Yes, they were not peculiarly hers—her interest in them was collateral, not direct—sympathetic, not selfish. The West rushed manfully on—but what they bore, what they suffered, and what they did, it does not belong to me here to say.

With respect to the hon. member from South Carolina, (Mr. McDUFFIE,) whom I was delighted, on a former occasion, to find co-operating with the friends of internal improvement, I must say that my delight was only equalled by the regret I now feel at his opposition to the present bill. He tells us that the West is filled with emigrants from the Eastern states; that her inhabitants are but one part of the same family, spread on the eastern and western side of the mountains; that all the various and fond recollections which belong to the birth-place of these emigrants, constitute so many ties and safeguards to cement the common union. But, need I remind that gentleman, that other generations are hereafter to spring up—generations who will find the tombs of their ancestry, not upon the shores of the Atlantic, but in the valley of the Mississippi and the Ohio. On them no such ties will exert their power—no such recollections spread their healing influence. Is it not then the duty of the General Government to bind our population by other and more lasting ties? And, after all, what is it that is asked from Congress, not only at this session, but at all future sessions, for these eighty miles of the great National highway? Less than the

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cost of a single frigate—not twice the sum which will build those ten sloops of war which are now called for, and which I apprehend will be required for the defence of our commerce against the depredations of piracy—this is all that is asked. Yet we are told of the ravenous voracity of the West! Will Pennsylvania decline an appeal, not to her generosity, but to her justice? Is it fair—is it generous—is it just—after she has enjoyed the expenditure of more than a million of the public money, on the Cumberland road—after houses have sprung up, and villages been formed, and settlements multiplied upon her soil, in consequence of that expenditure—I ask, is it generous, to say, the moment the road leaves the limit of that territory, that she will oppose its farther progress? But, if neither justice nor generosity will prevail with her, let me remind her delegation of the interest of that state. What is this road but an extension of the road from Philadelphia to Pittsburgh? And whither will its branches lead but to Bedford, to Carlisle, and downward, from thence, through all the neighboring towns? Sir, I do hope that the gentleman from Pennsylvania will not oppose this bill. I know, indeed, that there did once exist a prejudice against the Cumberland road, in one city of that state; but I feel satisfied that ere now the good sense which so eminently distinguishes that city, has prevailed against the prejudice arising from a local interest, by which, for a moment, it was clouded. May I not appeal to the whole House? We have a great trust—we have also a great duty to perform. Let us lend our hearty co-operation for the common good of those who sent us.

What shall we, from the West, say to our constituents when we return home, and they ask us, what have you done for the Cumberland road? Must we answer, "No money, no money." If they can ask us what was done for the Delaware and Chesapeake canal, must we say, "O! there was some money for that—about twice the sum we asked for the Cumberland road?" Sir, we are men, and we have the feelings of men. But I will not longer detain the committee on an object so simple and a proposition so self evident as the expediency of this measure. Let me rather anticipate your parental kindness—your paternal feelings, in promoting a design so intimately connected, I will say, with the safety and the best interests of our country.

The question was then taken on filling the blank with 150,000 dollars, and decided in the affirmative—ayes 96, noes 86.

The committee then rose and reported the bill; and the amendments made in committee of the whole, having concurred in—

Mr. BRECK, of Pennsylvania, said, he had no objection to voting money towards the accomplishment of the object proposed by this bill. But as the ground of compact had been taken away, he had prepared an amendment to the bill, by the adoption of which, the bill would better meet his views than it would in its present shape.

There were, he said, three ways in which money might be advantageously appropriated by the Government for the purpose of internal improvement: the first, by adopting a general system, founded on a survey of the whole wants of the country; the second, by the appropriation of money for the purpose, leaving the selection of objects and the application of the money, to the states respectively; the other, by subscriptions to the stock of companies already created by the authority of the states. The last Mr. B. thought the preferable mode of doing this thing, and the object of his amendment was to aid the funds of every company which the state of Ohio should incorporate for the purpose of making this road, by a subscription to the stock of the company.

If, he said, Ohio were to go upon the same plan, in

relation to her roads, as other states had done, there could be no objection to giving her aid by a subscription to the stock of her Turnpike Companies. By such a provision as that, said he, you invite individuals to make exertions to effect public works, and you get something for your money. You get tolls from the road, which are exceedingly important to keep the roads in order, and place the Government roads on an equality, as to their condition, with the Turnpike Roads made and kept in repair by individual associations. Mr. B. proposed, by this amendment, whenever 80 per cent. of the capital stock of any company should be subscribed and secured to be paid, to authorize the Executive to subscribe the remaining 20 per cent. which, in the road now in question would require about the same amount of money as the bill proposed to appropriate. Mr. B. then submitted the following as a substitute for the bill:

"Sec. 1. *Be it enacted, &c.* That whenever a company, with a competent capital, shall be incorporated by the state of Ohio, for the purpose of opening and making an artificial road, with proper corporate powers to take toll and keep the same in repair, from the town of Canton, in the state of Ohio, on the right bank of the Ohio river, opposite to the town of Wheeling, to the Muskingum river, at Zanesville, in said state, the Secretary of the Treasury, shall be, and he is hereby, authorized to subscribe in the capital stock of said company, in the name and for the use of the United States, as many shares as shall amount to twenty per cent. on the whole capital stock thereof: *Provided,* the amount so subscribed shall not exceed ——— dollars.

Sec. 2. *And be it further enacted,* That the said Secretary shall pay the said subscription at such times and in such proportions as may be required by the said company, out of any unappropriated money in the Treasury, whenever it shall be satisfactorily shewn to the President that funds sufficient to finish said road, including the subscription hereby authorized, have been raised in the state of Ohio, under the act of incorporation as aforesaid.

Sec. 3. *And be it further enacted,* That the said Secretary shall vote for President and Directors of said company, according to such number of shares thus subscribed, and shall receive upon the stock, the proportion of tolls which shall, from time to time, be due to the United States for the shares aforesaid."

The question being taken, without debate, on agreeing to this amendment, it was decided in the negative, by a considerable majority.

Mr. JENNINGS, of Indiana, rose to propose an amendment to the bill. He did not wish to detain the House by any remarks upon it, but conceiving its provisions necessary to just legislation on the subject, if the House should adopt it, he would vote for this bill: if not, he should vote against it. Mr. J. then proposed the following:

"*Be it enacted, &c.* That the President of the United States be, and he is hereby, authorized and empowered to appoint one impartial and judicious person, not being a citizen of either of the states through which the road hereinafter mentioned shall pass, to be a commissioner; and, in case of the death, resignation, refusal to act, or disability of any such commissioner, to appoint another in his stead, who shall have power according to the provisions of the act, entitled "An act to authorize the appointment of commissioners thereinafter mentioned," approved, May the 15th, 1820, to complete the examination and survey heretofore commenced by virtue of the provisions of said act, and to extend the same to the permanent seat of Government of the state of Missouri; the said road to conform, in all respects, to the provisions of the said recited act, except that it shall pass by the seats of Government of the states of Ohio, Indiana, and Illinois; and the said commissioner, and the persons

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employed under him, shall receive the same compensation for their services, respectively, as is allowed by the said recited act: *Provided, however,* That the said road shall commence at Zanesville, in the state of Ohio, and, to defray the expense thereof, the sum of \$10,000 is hereby appropriated out of the appropriations made by the first section of this act.

Mr. COOK, of Illinois, said, that, in what he should say on the subject of this amendment, he hoped neither the friends nor the enemies of this bill would think him obtrusive. But, whilst the gentleman from Indiana and Mr. C. himself, consider that proposition a just and rightful one, he could not consent to vote for the bill without endeavoring at least to procure this amendment to it. Whilst the pledge was retained in the bill—a pledge not coming up to the expectation or meaning of the parties to the compact on which it is professed to be founded, the House ought to allow these ten thousand dollars, of the money appropriated by the bill, to be applied to the location of the road from Zanesville to the Mississippi. After some further observations, he said he hoped every friend to this bill would give his support to it. We ask it of you, said he, as a matter of sheer justice, and we have a right to expect it.

Mr. CALL, of Indiana, said, after the great talent and eloquence which had been elicited, it was with much reluctance that he now rose to express his views on the subject under consideration. But, said he, I feel it a duty which I owe to the people whom I have the honor to represent, to urge the amendment just offered. It asks but a small allowance for the location of a road through three of the new states of the West. Although it may have been said that the people of the Western states are clamorous in their demands on Congress, yet, when we take into consideration the great sums of money which they, for the last thirty years, have been constantly paying into the Public Treasury, for the purchase of lands, and the small sums which have been expended among them by this Government, their claims assume the character of equity, and your compact gives it that of justice. The inhabitants of that tract of country, once known as the North Western Territory, for the purchase of lands, have paid into the Public Treasury about twenty millions of dollars. Strange as this statement may sound to many who hear it, yet such is the fact. Upwards of eighteen millions of dollars have been received since the first land offices were established in that section of the country, and more than one million of acres of land were sold previous to that period.

During the last five years of peace and national prosperity, Congress has appropriated upwards of three millions and a half of dollars, in the execution of light houses, improvements of harbors, surveying coasts, and making fortifications, and half a million is now annually appropriated to building ships of war. These are but small items in the national expenditure, yet they are immensely large when compared with the limited appropriations for the Western states.

The resources of their inhabitants are very feeble indeed; the money which they procure for purchasing lands is obtained in small quantities, from emigrants, and the sacrifice of property in an uncertain southern market; this money is immediately deposited in the Land Offices, and from thence transported in wagons or steam boats, to the National Treasury, to return to the West no more.

I would ask Mr. Chairman, who are these Western people who are preferring their claims? Are they not your fathers, brothers, and neighbors, driven by misfortune, and led by enterprize to seek a competency, or improve their condition in life, by contending with every difficulty and privation attendant on a frontier settlement? They have cut down the wide forests which they there found, and brought several flourishing

young states into the great American family, and this I conceive of some political importance. They now ask a road to connect them more closely to you, and afford a more speedy communication between them and the old states. If this were sought and granted as a matter of favor instead of right, the Government would not, in my opinion, lose any thing by it. In the contemplated route the road would pass through much land still owned by the United States, the value of which would be much increased, and more speedily sold; so that in a short time the amount appropriated would be refunded. Towns, villages, and farms, would immediately appear on its borders, and their inhabitants and owners contribute much to the opening and improving the road.

As regards the compact made between the United States and these states on their admission into the Union, I conceive Congress as much bound to appropriate the two per cent. fund to making roads which shall touch or pass through those states, (and that their contract is not performed until this is done) as it was to pay the three per cent. fund when demanded; this last has never been refused, but advanced as a matter of right, and as matter of right the appropriation of the two per cent. fund, according to promise, is now demanded; both funds stand on the same principle, and are embraced in the same compact. I must, therefore, hope, sir, the proposed amendment will succeed.

The question was then taken on agreeing to the amendment proposed by Mr. JENNINGS, and decided in the negative, by 73 negative to 54 affirmative votes.

The question being about to be put on ordering the bill to be engrossed and read a third time, Mr. COCKE demanded that it be taken by yeas and nays, and it was so ordered. The question was not taken, however, to-day, being postponed by an adjournment.

IN SENATE—TUESDAY, JANUARY 18, 1825.

Mr. FINDLAY presented the petition of William Brandt & Co. merchants of the town of Archangel, in Russia, owners of two vessels, and subjects of Russia, by S. Chew, of Philadelphia, their attorney in fact, praying that certain additional tonnage and discriminating duties paid into the custom-house, at New York, by their agent, on the said ships and their cargoes, may be refunded.

Mr. EATON objected to the petition being received, on the ground that the subject of another power was not permitted to approach Congress by petition. A foreigner who had any claim to bring forward against the United States, ought to apply to the Secretary of State, and if he believed that it was correct, but had not sufficient authority to act, then it should be brought before Congress; and this was the course the petitioner ought to have pursued.

Mr. FINDLAY, in answer, observed that, although the Constitution only recognized the right of petitioning in citizens, yet there was nothing prohibiting receiving petitions from foreigners. There was at this time a bill on the table granting the benefit of the patent laws to an alien; and, if petitions of one kind were received from aliens, and others rejected, he did not see how the distinction was to be made. Must a committee be formed for the purpose? This petitioner had been informed by the Secretary of the Treasury there was no other remedy but to apply to Congress. A similar petition had been received last year, but had not been acted on for want of time—and why was it to be rejected this year?

Mr. KING, of N. Y. said that the Government of this country was for the people of this country, and if foreigners had any communication to make, the minister or consul of their nation, was the proper person from whom it was to come. With regard to the case mentioned, in which the patent law had been extended to an alien, that application might be made by any gentleman whatever. The intercourse between Russia and this



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country was through the Executive power. He wished to know if it was customary for Americans to go England, and present petitions there? No. They could not be sustained for a moment there.

Mr. HOLMES, of Maine, recollected one such case, and a very recent one too. A citizen of the United States, General Boyd, applied to the British Parliament, by petition, for relief, for a certain cargo which had been confiscated at the Cape of Good Hope. Much discussion took place on the subject, but finally a bill passed Parliament for his relief, and he received a considerable sum of money. The General was not a British subject. He was an American citizen, and fought in the Revolutionary War. They often heard of petitions from foreigners; and if the statement of these petitioners was found correct, he did not see why they should not be relieved.

Mr. SMITH did not recollect any case directly in point. The Secretary of the Treasury might have given the advice mentioned by the petitioner, and he was not at all wrong in so doing. The money had been paid into the Treasury, and, if so, could not be returned to the petitioners by any authority of the President or officers of the Government. An act must be passed for the purpose. This memorial was not a memorial from the merchants in Russia, but came regularly before the House from a citizen, the agent of a foreigner, and ought to be received.

Mr. LANMAN was in favor of committing the petition, but not in consequence of the precedent of Gen. Boyd. It would be found that the General presented himself before the king in council, or parliament—the petition was presented in the character of a British subject serving in a military capacity in India, claiming certain immunities granted him to export saltpetre. He thought the dignity of the Government and their own dignity, sense of duty and self-respect, required that they should accept this petition. He was aware of many petitions having been received from foreigners, among others that of Col. Calava, of Florida.

Mr. LLOYD, of Mass. did not attach much importance to the precedent of General Boyd, because he thought they were capable of judging for themselves. Gen. B. did come before Parliament as a petitioner, but it was in the character of a Mahratta chieftain—he could not have presented a petition as a citizen of the United States—he did not believe there was any law existing in the United States requiring that an alien should be naturalized before he acquired the right of petitioning. This petitioner had pursued the proper course, and ought to be heard.

Mr. TAZEWELL submitted somewhat at large his views of the proper course to be pursued by foreigners in seeking favors or redress from an alien government; the true distinction to be made between citizens and aliens by Government in receiving their complaints; what was due to courtesy on the one hand, and to right on the other, &c. But Mr. T. was heard by the Reporter too indistinctly to venture a more particular statement of his remarks.

The petition was received, 21 rising in favor to 12 against; and the petition referred to the Committee on Finance.

#### HOUSE OF REPRESENTATIVES—SAME DAY.

##### WESTERN NATIONAL ROAD.

The House passed to the order of the day, and took up the unfinished business of yesterday; which was the bill for the continuance of the Cumberland road.

Mr. MILLER, of Pennsylvania, moved a reconsideration of the vote of yesterday, by which an amendment offered by Mr. JENNINGS was rejected, in the words following:

"Be it enacted, &c. That the President of the United States be, and he is hereby, authorized and empowered

to appoint one impartial and judicious person, not being a citizen of either of the states through which the road hereinafter mentioned shall pass, to be a Commissioner; and, in case of the death, resignation, refusal to act, or disability of any such Commissioner, to appoint another in his stead, who shall have power, according to the provisions of the act, entitled "An act to authorize the appointment of commissioners therein mentioned," approved May the 15th, 1820, to complete the examination and survey heretofore commenced by virtue of the provisions of said act, and to extend the same to the permanent seat of Government of the state of Missouri; the said road to conform, in all respects, to the provisions of the said recited act, except that it shall pass by the seats of Government of the states of Ohio, Indiana, and Illinois; and the said commissioner, and the persons employed under him, shall receive the same compensation for their services, respectively, as is allowed by the said recited act: *Provided, however,* That the said road shall commence at Zanesville, in the state of Ohio, and, to defray the expense thereof, the sum of \$10,000 is hereby appropriated out of the appropriations made by the first section of this act."

Mr. MARVIN observed, in support of this motion, that the amendment offered by the gentleman from Indiana was one of the first importance; that the House was very thin at the time it had been brought forward, and as it had been near the hour of adjournment, and members had been somewhat exhausted by the previous debate, it had not received all that consideration to which it was entitled. The bill, as reported by the Committee, provides for the extension of the Cumberland Road from Wheeling to Zanesville. The amendment proposes to devote a small part of the amount appropriated to the purpose of locating and marking out the remainder of the road from Zanesville to the Mississippi. It is asked as a benefit for the people of the West, and it is certainly important that all the great roads in a new country should be located as early as possible, in order that persons intending to settle in the country may have an opportunity to purchase land, and to commence improvements in reference to these roads.

The Secretary of War, in a luminous report, lately submitted to this House, has recommended the construction of a national road from this city to New Orleans, and already we perceive that the citizens all along the route proposed, are alive on the subject. Wherever it passes, a long train of evils, as well as of benefits, must unavoidably result from its being located in one or in another direction. But, with respect to the great national road now in prospect, the evils may be avoided, while all the benefits are secured, simply by having its course ascertained before the settlements are made. By doing it now, Congress will also consult public economy; because, should it be deferred to four or five years hence, it will then have to be carried through a wilderness, with great labor and expense. But, if its course is marked now, the road, when it comes to be made, will be found to pass through a succession of farms and improvements. The men who are to make it, and the provisions which are to support them, will both be already on the spot. Every facility will be afforded in its construction; the bone and sinew will be there, on which its formation must depend. It can be laid out in small contracts, which experience has proved to be the best of all modes for conducting undertakings of this description. But, if we defer it, the country will then begin to be settled, villages will be growing up, improvements will be making, a part of the country will claim the road here, another part will demand that it shall go there, and Congress will be distracted by their conflicting pretensions; whereas, if it is located now, the villages and settlements will be formed with respect to it, and the road itself will do much toward forming them. But, even suppose that this road will never be made by the General Government, still, if we mark out its course, immense

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benefits will follow even this measure; for then, the states, knowing where the road is to pass, may accomplish the completing of it on their own resources. He hoped the question of reconsideration would prevail.

The question on reconsidering was accordingly put and carried. Ayes 107.

The question being then on adopting the amendment, Mr. JENNINGS called for the Yeas and Nays, but the House refused to order them.

The amendment was carried by a large majority.

The question then recurring on ordering the bill, as amended, to be engrossed for a third reading,

Mr. M'DUFFIE, of S. C. rose, and said he wished to say a few words on this bill, both from the interest which he took in the success of a general system of internal improvements, and to show that his opposition to this bill did not involve him, in reference to his views of the general subject, in any inconsistency.

Of all the considerations in favor of a system of Internal Improvement, no member, he said, was more sensible than he was, and it was hardly necessary for him, he trusted, to state the fact to induce the House to believe it. But he thought that he could satisfy at least some portion of the House, that, if a due appreciation of the great national objects to be attained by the completion of a system of internal improvement, was with them as a motive of conduct, they ought carefully to abstain from appropriating any money for any object of that description, until, after a patient and deliberate investigation, a general system should be devised. And here, said he, let me make a remark, for the truth of which I appeal to the members from every state in the Union which has embarked in a system of internal improvements, that, notwithstanding the obvious benefits which have resulted from it, it is a fact, even in those states in which internal improvement has been most successfully prosecuted, it has had to encounter the most violent opposition that could be waged against any measure. When the work is commenced, and whilst it is in progress, those who do not look to the result,—the great mass of the community—can hardly be brought to support it. Was it not a fact, he said, that the great canal of New York—that most honorable monument of public spirit, enterprise, and industry—would not that work have failed if the fund from which it was executed had not been previously pledged? If, then, a system of internal improvement by a state of great wealth and condensed population, cannot be prosecuted but with the utmost caution, and with something like a previous pledge, by an absolute investment of money, requiring the consent of all the branches of the Government to repeal it, he asked whether it would not be better for us, commencing such a system over so extensive a sphere, to act with double caution? We ought, said he, to look to the great whole of a system of internal improvement, and act upon the subject with reference to its ultimate completion. For, if we are to stop at any point in the execution, to break it off or to resume it according to the variation of public opinion upon its merits or expediency, we must act inefficiently and unsatisfactorily. We ought, therefore, on commencing it, to avail ourselves of those means most likely to ensure its final completion.

What then is the question now to be determined?

The question is not, whether it be wise to continue this road. On that question, there is, I believe, no difference of opinion, except on the part of those who object to it on constitutional grounds. But, I ask, what great national consideration calls upon us to adopt this system now, rather than three years hence? Are we, by continuing this road, to preserve this Union? Yes, we are. But, without this road, will the Union be at an end in three years? What reason is there for alarm on that score, though this work may not be undertaken for five, six, or ten years to come? All those future evils which we are required to guard against by making this road,

and similar works, are somewhat distant. If this road should not be commenced for ten years, the Union would not be dissolved by the delay. But I am not for postponing the work for ten years. I am for commencing it as soon as we have made our surveys—as soon as we have determined what shall be the general system established for the prosecution of these objects. As soon as we commence, sir, I am for going on as rapidly as the funds of the nation will allow. No one can be more anxious than I am that this work should not only be done, but done speedily. We shall accomplish it, however, by acting systematically on the general subject, sooner than by a partial appropriation, without previous examination, tending to hazard the final success, and at least retard the completion of the work.

With regard to the arguments in favor of this particular road, they may be either national or partly national only. That this road might be a part of a system of Internal Improvement, Mr. McD. said he would readily admit. In that view, he should cheerfully support it whenever a general system should be established, and had no objection to its having priority in the execution of the parts of such a system. But, so far as national considerations called for it, there had been no argument to shew why this road ought to be undertaken now, without those previous inquiries and investigations which must precede the establishment of a general system. In a word, said he, all the arguments that can be used in favor of undertaking this work now, are sectional arguments. It is not worth while to disguise it. If they are not, why are they urged from a particular part of the country? The whole nation does not call for the present undertaking of the work, but two, three, or four of the Western States. Mr. McD. here replied to the argument that the Western States are not to be considered as more interested in this road than some of the Eastern. It was an erroneous idea, he argued, that a road was only valuable, or most valuable, to the particular state through which it runs. The Cumberland Road runs through three States which derive no advantage from it. The right of way over this road is its only value. A few individuals residing directly on the road may be benefitted by its passing through their lands; but the great benefit is to those who reside beyond its two extremes. Are not the Western States particularly benefitted by the Cumberland Road? It is the Western States, and the City of Baltimore—the points to and from which the road passes, that are benefitted by it, and not the States through which the road runs; and, regarded in this light, the continuation of that road would be a road for the benefit of the Western States, of Maryland, and a very small proportion of the State of Pennsylvania. And, what is the state of the fact as to the Western country and the United States with regard to the appropriations heretofore made for the purposes of Internal Improvement? Why, sir, with the exception of this road, and other public improvements in different parts of the Western Country, the United States has never appropriated one cent, worth noticing, for internal improvement in any part of the United States. The idea which had been put forth, that the navies of the United States, or the other institutions for the defence of the United States, are to be regarded as improvements analogous to those of Roads and Canals, seemed to be founded on an entire misconception. Mr. McD. traced this argument to its results. We are told, said he, that commerce benefits the Atlantic States, and that wars for commerce are wars for the benefit of the Atlantic States. Because commerce is transacted in the Atlantic cities, is it for the benefit of the States in which they are situated? Not more than the Cumberland Road is for the benefit of the three States through which it passes. And, if we are to regard those only as benefitted by any particular incident who are in contact with it, then the Atlantic Cities only, and not the Atlantic

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States, are benefitted by commerce. Is this argument correct? Certainly not. It is not those who prosecute commerce who alone are interested in it. For if it were, how far would its influence extend beyond the limits of our seaports? The man who lives a hundred miles from a seaport has no more interest in the commerce carried on there, than if he were a thousand miles distant. Sir, the back country of South Carolina has no more interest in commerce than every gentleman in the Western country has. Commerce, from its universal diffusion and influence, is exclusively national in its nature, benefitting equally every part of the country. Mr. McD. marked the further progress of the argument. We were told yesterday, said he, that the patriotism and devotion of the people of the Western country, in the last war, was not surpassed by that of any other portion of the people of the United States. Of the flood of honor which resulted from the late war, I have pleasure in acknowledging that the Western country was entitled to more than an equal portion. But, sir, had she no interest in the causes of that war? If we look at the public documents which belong to that day, we shall find that the blood which flowed from the savage tomahawk was one of the causes of that war. It was not a war for commerce merely. The outrages of the savages on our borders was one of the causes avowed for it, and not without foundation—for the agents of the adversary power were stimulating the Indians on our borders to hostility against our citizens, whose situation invited and received the attention of the Government. They were protected. All the military movements and operations on the Northwestern frontier were directed to the great object of protecting that frontier from the havoc and desolation of savage warfare. In addition, have we not, ever since the foundation of the Government, been prosecuting wars for the protection of our frontiers against Indian hostilities? Has it not cost more, during the times of general peace in Europe, for the protection of that frontier, than for that of the Atlantic frontier? The whole expense of the Navy, in those periods, will not be found to be greater than that of protecting the Western frontier from the incursions of the Indians. What, indeed, is now the fact in regard to this nation? A large portion, say one-third of the Army of the United States, is at this moment permanently established on the Western frontier, for the purpose of protecting it against the Indians. If we are to regard the expense of protecting a particular frontier of the country as exclusively incurred for the benefit of that frontier, all the middle and interior part of the Union, the heart of the Republic, has no interest in our defensive establishments, and all the appropriations for the defence of the frontier, East or West, are on their part gratuitous. Could I, residing far in the interior, remote from danger of foreign incursion, use this argument against measures necessary for defence? No, sir. In fact, Mr. McD. said, if any comparison were to be instituted between the expenditures for the protection of the West, and those for the protection of the Atlantic frontier, it would be found that the former involved more of national and patriotic feeling, than the latter. For, he asked, what do we of the Atlantic States get, in return for the expenditures for the protection of the frontier of the West? Nothing. What for the protection of the Eastern frontier? Commerce. Interest, therefore, invited measures for the protection of the maritime frontier, whilst nothing but the most high and elevated considerations operated to influence the measures for the protection of the Western frontier.

There was one topic alluded to in the course of the discussion, which, Mr. McDuffie said, was entitled to the most profound consideration. He referred to the distress upon the currency of the country, produced by the expenditure of the Government, in any part of the country, being less than the revenue raised in it. He acknow-

ledged the truth of this observation, and expressed a doubt whether, if we had a system of direct taxation, operating equally on every part of the Union, the Government could, in the present state of things, exist under it. Take the state of Kentucky for example. How was her portion of the revenue of the General Government now paid? In the price of the articles of foreign growth or manufacture which they consume. That, he said, they could well bear, because they paid it in the currency of the State. But, suppose the same amount of money was to be raised by direct taxation, and it was to be received this year there, to be expended next year elsewhere. What would be the result of such a state of things? Fortunately, the actual operation is, under present circumstances, the reverse of this. We raise our revenue by imposts on importation from foreign countries, which are paid in the Atlantic cities. All the money raised there, or nearly all, is expended elsewhere, and much of it in the interior. So that, if any account be made of the drain of money, it is rather against the Atlantic states, than in their favor. If any state in the Union has a right to complain, said Mr. McDuffie, it is that which I represent. A considerable amount of the revenue of the U. States is raised from the goods imported into Charleston, and not one tenth part of the revenue raised there is expended there, so that there is a constant drain upon that city, which produces the most injurious effects to its interests. The whole revenue of the country, he said, was derived from commerce, except the little derived from sales of the public lands, the full amount of which last, however, and probably more, was expended on the army, and other national establishments in the vicinities in which it was collected.

With respect to the capacity of the country, as regarded the time when this general system of internal improvement should be commenced, Mr. McDuffie thought it his duty to say a few words, because he had been mistaken before, when he said that the principal object of the next administration would be to pay off the public debt. He meant not to be understood literally, that the whole care of the Government was to be limited to the payment of the public debt. If the Secretary of the Treasury was correct in his computation, Mr. McDuffie rejoiced to believe that, with all due attention to the redemption of the public debt, the Government might be able to commence a system of internal improvement within two or three years—and, he said, the sooner it can be commenced, the weaker is the argument in favor of the appropriation at this moment. What, said he, is the state of our finances now? For the question is not, what we may be able to do hereafter, but, what we may with propriety do now. The Committee of Ways and Means, aware of the necessity of such a measure, has reported a bill authorizing a loan to the extent of twelve millions for the service of the current year. An amount of public debt falls due in the year, exceeding by 12 millions, the ability of the Government to redeem. For the year after, another loan of six millions will be necessary to complete the payment of the debt which will become payable in that year. The result of all the estimates and calculations on the subject is, that our revenue will, in two or three years from this time, be abundant—a strange argument in favor of an appropriation for the road now, when the revenue is obviously defective.

On this subject, said Mr. McD. sufficient for the day are the evils thereof. This Government has been heretofore led into most disastrous difficulties, by financial mistakes. No man can predict what may be the course of future events. If we go on to act upon the ground that we shall have a redundant revenue, and the course of events shall not realize the prediction, what will be the consequence? A re-action of public opinion, such as was seriously felt by its operation in this House, when, in 1821-22, all the institutions in the country were put in

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jeopardy, by previous mistaken calculations of the revenue. When the internal taxes were repealed, no one anticipated a deficiency in the revenue, as the consequence. But, not more than two years elapsed, before all the calculations of the revenue were disappointed; and we had to borrow money, to fulfil the public engagements. Borrowing money in time of peace, was an alarming symptom; and it produced in the nation, and in this House, such an effect, that it was with difficulty our institutions were kept together. This, Mr. McD. said in reference to the defensive system, suspended under this state of things, which he regarded as of vital importance, &c. With this warning before us, said Mr. McD. let us not commence the work of internal improvement, in such a manner as may defeat its final success. As soon as we shall have a clear surplus revenue, I will go heart and hand with gentlemen in making the most liberal appropriation for the purpose of internal improvement; and I shall not be scrupulous whether it be commenced in this or in that part of the country. I wish to have the whole system before us, ere we begin, so that what we do, we may do wisely, judiciously, and with our eyes open.

Mr. WEBSTER, of Massachusetts, then rose and said, that, as he was in favor of the bill, he should say a few words in explanation of the reasons which led him to vote for it. As to the question of power in this House to make appropriations for objects of internal improvement, he should at this time say nothing. When that question was so much agitated in 1816, he had made his opinions respecting it openly known: he was, of course, ready to change them whenever he could be brought to doubt the constitutional foundation on which that power rests.

At present, the question was a different one, inasmuch as the present bill might be passed without the assumption of any power different from what has been exercised by this House for these twenty years. The bill, it is true, carries the principle of former acts somewhat farther, but it does not alter the principle.

On this subject, as on all others, Mr. W. said, he wished to bring to the discussion a right feeling, that is, a feeling truly national. It mattered nothing to him who was to be immediately benefitted. *Tros Tyriusve*, whether an inhabitant of the banks of the Merrimack of New Hampshire, or the Merrimack of the Missouri, he cared not: provided he be a subject of our legislation he has claims, said Mr. W. on my impartial consideration. If he had been led, since the discussion of 1816, to alter his opinion on any part of the general subject then debated, it was that which respects an equal distribution of the public expenditures through the different parts of the Union, according to their population. He doubted, extremely, the propriety and even the power of Congress to carry on legislation on the principle of balancing the local interests of different sections of the country. If the business of legislation has been committed to us at all, the whole subject is in our power and under our discretion. He doubted whether Congress had power to adopt a system which should go on the professed principle of distributing the public moneys *pro rata*, having respect to the different portions of the Union merely in a numerical view of them. When Congress legislates at all, it must legislate for a whole, and not for twenty-four parts. The idea had been brought forward, as being calculated to prevent a merely local legislation; but is was, in truth, itself, a local idea. Such a system would rest on a foundation essentially vicious. When going into a system of improvement, the House has simply to inquire, Where is improvement most wanted? He cared not whether it was beyond the Alleghanies, or beyond the Missouri; wherever it was most needed, there it must first be made. He supposed the House had power to decide which of the various objects was most pressing; but he denied

that it had the power to enter into the consideration of a principle of mere numerical calculation, in undertakings for the public good. On the present subject, it was his opinion, that the states who had been admitted under the stipulations which had been stated, had, in fairness, a right to expect the Government to proceed with this road.

Taking the different statutes together, it seemed to be hidden out, that Government would make a road, leading to those states. Congress had acted again and again on this idea; and, he asked, Where was the difference between the present appropriation, and those which had been formerly granted for this same road? All that can be said, is, that the Government has made advances on a fund which is incompetent to repay them, and so the present amounts to a direct grant. Well. Had not this been done before? The appropriations for the Cumberland road had, many of them, been made when it was known that that fund was inadequate. The case is no worse now. The degree only is different. The principle is the same; and he thought, that the Western States might fairly expect this object to be effected, on the ground of their several contracts. The next question was, is this a fit object for which to appropriate? Gentlemen say it is not a national object. But he knew of no work equally beneficial to all the twenty-four states. What, asked Mr. WEBSTER, is a national object? Is nothing to be so denominated except what benefits every part of the United States? Congress last year voted a sum to improve certain harbors on Lake Erie. Was this of any benefit to Alabama, or New Orleans? They had appropriated money for the repairs of Plymouth Beach: could this be any benefit to the citizens of Indiana? Works surely may be denominated national, which are of extensive importance, although the benefit may not be strictly universal. The fortifications, for instance, which had been erected on the Chesapeake are national only because many have an interest in it. The degree of interest in these works between those who lived on the shores of the Chesapeake and the shores of Lake Michigan, was so widely different, that the latter may, in comparison, be said to have no interest in them. Yet, certainly those fortifications were a fit subject of appropriation, and it was the duty of Congress to erect them.

With respect to the present road, he asked how did the concern of the General Government in it begin? He presumed the origin of that concern was to be found in the connection of Government with its great territory of public lands. This was the idea out of which grew the reservation of the two per cent. fund. It was intended, doubtless, as an inducement to the settlement of the public lands, and none, surely, can doubt that Government may rightfully hold out considerations calculated to bring the public lands to a better market. The reason for making the road is still the same. Those lands are still in market, and every rod which is added to this road, increases the value, and is calculated to raise the price of those lands.

Another consideration was, the great accommodation which such a line of road would furnish to all the Western states. With respect to those states, the object was strictly a general one. Let me ask, said Mr. W. if Government were about to erect a fort or an arsenal, or to build ships of war, and it was possible that any of these objects would require so small a sum as that now asked for, whether any body would then hesitate? If, then, the object was legitimate, if it was useful to all our citizens, and especially so to those who now ask it, might not Congress lawfully make it? As to the incidental advantages accruing from the expenditure of so much of the public money as was now proposed to be appropriated, he was confident they had been overrated. The expenditure of 150,000 dollars could be no great boon to any of the states. For his own part, he felt glad that

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this money was to be laid out beyond the mountains. He did not hesitate to avow that he should be yet more glad could more of the public money be expended there. Such were his feelings whether right or wrong, and such his views, whether correct or erroneous.

And here he would state what he conceived to be the true situation of that part of the Union. The people he considered as being substantially rich, yet, having no markets, they were without the means of converting their riches to many desirable purposes of common life. And, in such a situation, the expenditure of comparatively a small sum of money might do much in promoting the comfort of the people. There could be no doubt, if gentlemen looked at the money received into the Treasury from the sale of the public lands, to the West, and then looked to the whole amount expended by Government, even including the whole of what was laid out for the army, the latter must be allowed to be very inconsiderable, and there must be a constant drain of money from the West to pay for the public lands. It might, indeed, be said, that this was no more than the reflux of capital which had previously gone over the mountains. Be it so. Still, its practical effect was to produce inconvenience, if not distress, by absorbing the money of the people. It was as true of the West as of all other parts of the country, that the consumer pays the tax. The public revenue was not raised in Boston, or New York, or Charleston. The West paid as much of that revenue as the East, in proportion to its consumption; nay, on a strict calculation, something more. They pay the tax and a profit on transportation. True, indeed, the money was collected in the customhouse, yet it was first paid where the imported articles were consumed. It could not be paid in the sea-ports, if it had not first been received in the interior. Some gentlemen said we must wait, till a system is formed—that is, some system of internal improvement, so equal in its bearings, and so satisfactory in its details, that all shall agree in adopting it. He feared if gentlemen waited till then, they would have to wait till they grew very old. He suspected that few of those who heard him would travel over the roads or sail upon the canals constructed after the adoption of the system. How long would it take merely to make the surveys for such a system? Was any man to be found bold enough to undertake to sketch out a system of internal improvements extending for twenty years to come? He would venture to say that no one man could form a plan in which he could get five others to agree. The thing was impracticable—and impracticable for this reason, that our entire condition was merely in a process of development. The country was changing every day and every hour—new views were continually presenting themselves—new wants were continually discovered—new resources were constantly unfolding themselves—new connections were every day taking place—individuals were doing much—states were doing much—and he was satisfied that, if Congress was never to act on individual cases, but only on a universal system, it would never act at all.

This road was wanted—it was wanted now—it was wanted more now than it would be to-morrow; and the expense of making it to-day would be no more than of making it to-morrow. In the settlement of a new country, roads were all-important. The sooner they were opened the greater was their value and importance to the settlers. Ought not the road, then, if it is to be made at all, to be made now?

As to the burden of this appropriation, he agreed, indeed, with the gentleman from South Carolina, that it was proper to limit the public expenditure within reasonable bounds, and to keep down the public debt. Yet he must be permitted to ask, what was likely to be the prodigious effect of this \$150,000 upon the public debt?

If this was a question which might not be asked now, how could it be asked when the system had been adopted? and an expenditure, not of 150,000 dollars, but fifty millions of dollars, would be called for to carry it into effect? That, indeed, would be a formidable subject of consideration, (and one which he suspected would always operate to prevent the adoption of such a system,) but now the amount was certainly too small to be in the least degree onerous to the public resources. In illustration of the principle that a general system was slow in being adopted, and that it would be necessary to commence with some particular object, Mr. W. referred to the act of last session, for removing obstructions in the Mississippi and Ohio rivers. It was then thought extraordinary by many gentlemen, that an object in which nine different states were each greatly interested should have remained so long unaccomplished. But that circumstance was, perhaps, the most operative reason why it had not been done. Among so many states it was difficult to obtain mutual counsel and united effort, and they thus continued to neglect an improvement, the want of which had occasioned, at different times, the loss of half a million of dollars, although it was found that responsible individuals were now ready to undertake it for 65,000 dollars: a sum which, at least, in the Eastern states, would not be viewed as a heavy burden for one single county, or even for a single town. He regarded the country as under a general expectation of aid from the General Government in respect to the subject of roads. Congress had virtually said to the people of the West, that the road should be carried on till it reached them all, and though they might not have said this in any formal act, yet it had virtually been given out in the speeches made on this floor. The people consider them as under pledge, and the present bill in carrying on the road for eighty miles, does but carry Congress eighty miles farther towards the redeeming of their pledge.

Government, he believed, had received eighteen or twenty millions of dollars from the public lands, and it was with the greatest satisfaction he adverted to the change which had been introduced in the mode of paying for them; yet he could never think that the National domain was to be regarded as any great source of revenue. The great object of the Government, in respect to those lands, was not so much the money derived from their sale, as it was the getting of them settled. What he meant to say, was, that he did not think they ought to hug that domain as a great treasure which was to enrich the exchequer; yet, the consideration that Government has already received large sums from it, had great weight with them, when the persons who proposed it, came to this House, and asked a small appropriation to aid them in doing so.

Mr. McDUFFIE then again rose, and observed, that the honorable gentleman from Massachusetts seemed to have misconceived his views and the extent of the question. He agreed entirely with the gentleman that the idea of a system of internal improvement, which is to have respect merely to the population of different districts of the United States, is entirely visionary. He never threw out any such idea. He never contemplated that any such limitation should enter into the system. On the contrary, said Mr. McD. I agree with him that it will destroy the system. The only works in which the General Government can engage, are such as are national in their character. The constitution restricts them to these alone. A system, then, which proposes to distribute different works, to the different states, in proportion to their population, must be unconstitutional in its very principle; it appropriates to objects that are local, not national. I agree with the gentleman that we are to make a beginning with some of the objects of the system. I only proposed to inquire, whether this is the proper time to begin. If that gentleman meant to say



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that the General Government is under an obligation, or a *quasi* obligation, from its compact, to go on with this road, at present, I think he is mistaken.

All the appropriations which have hitherto been made under the idea that they are to be refunded from the two per cent. have certainly been made on a mistaken principle. The Government is to make a road to Missouri out of the two per cent. raised in Missouri. It is to make a road to Illinois out of the two per cent. raised in Illinois. If this doctrine is true, then Congress will still have to make an appropriation equal to the amount of the two per cent. in Missouri, for a road to Missouri, and so with respect to each of the other Western states. This clearly shews that Congress is not bound to make the present appropriation; for they have already spent five times as much as the two per cent. in Ohio, and that was the whole extent of their obligation. They have spent what they agreed to spend, for her, and a million and upwards besides; yet an idea has somehow got into circulation, that the Government has not fulfilled its obligations.

It has been said that Congress is now called upon for but a small sum, and how can this affect the Treasury? but, if gentlemen will look at the former appropriations for this road, they will never ask this. The very extravagant amount of a million and a half of dollars was not granted at once. We were called upon, year after year, to give comparatively small sums, and each request was accompanied by the pledge that the petitioners, if gratified, would ask no more, until, at length, the total sum has swelled to its present amount. But the argument, from the smallness of the sum now asked, so far as it operates at all, operates the other way. If you do a small thing, you encourage the petitioner to ask again, until, at last, he assumes, as in the present case, a peremptory tone, and talks to you about a compact. Sir, I object to any appropriation, unless for an object as national as the system itself.

The gentleman from Massachusetts has gone into an argument to show that this object is as national in its character as forts, arsenals, &c. Sir, I admit that, to a certain degree, all portions of the country may be interested in it; and, when a system of national internal improvements shall have been perfected, the only question by which I shall be limited in voting appropriations for its accomplishment, is the question "What is the value of the Union?" I know no other limit, but am willing to appropriate the whole value of the United States, if that value can be put into money.

The gentleman appears to have misconceived my argument, with respect to drawing revenue from one part of the country and expending it in another: and in his reply he sets out with the doctrine that it is the consumer who pays the tax. Sir, we all know this. I should be ashamed, indeed, standing as I do on this floor, if that doctrine were new to me. The consumer does pay the tax, but he pays it in the price of the article. But my argument went to shew that, where the tax was raised in any district of the country, and was not returned to that district, in the form of public expenditure, it disturbed the revenue, and had an injurious effect upon the currency, by producing a constant drain of money. To make myself intelligible—if five thousand dollars is raised in Kentucky this year, and spent in the Atlantic states in the next, whether such a process, if continued, will not take from Kentucky all her circulating medium. And what is the effect of such a withdrawal upon any community? It is like the withdrawing of the vital breath from a living being. Sir, it is death—it is annihilation. This question is not whether the West pays its due proportion of the revenue, but the question is where it is raised and where it is expended. And what is the effect of this upon the state of the currency? I said, and I still say, that the money raised for revenue in the West, is balanced by the expenditure of public

money for the support of the army quartered there. If any portion of the country has, on this subject, a right to complain, it is the interior of that state which I have the honor to represent.

The gentleman from Massachusetts has urged, as one leading reason why the Government should make roads to the West, that these roads have a tendency to settle the public lands—that they increase the inducements to settlement, and that this is a national object. Sir, I differ entirely from his views of the subject. I think that the public lands are settling quite fast enough—that our people need want no stimulus to urge them thither, but want rather a check, at least on that artificial tendency to Western settlement, which we have created by our own laws.

The gentleman says, that the great object of Government, with respect to those lands, is, not to make them a source of revenue, but to get them settled. What would have been thought of this argument in the old thirteen states? It amounts to this, that those states are to offer a bonus for their own impoverishment—to create a vortex to swallow up our floating population. Look, sir, at the present aspect of the Southern states. In no part of Europe will you see the same indications of decay. Deserted villages—houses falling into ruin—impoverished lands thrown out of cultivation. Sir, I believe that if the public lands had never been sold, the aggregate amount of the national wealth would have been greater at this moment. Our population, if concentrated in the old states, and not ground down by tariffs, would have been more prosperous and more wealthy. But every inducement has been held out to them to settle in the West, until our population has become sparse, and then the effects of this sparseness are now to be counteracted by another artificial system. Sir, I say if there is any object worthy the attention of this Government, it is a plan which shall limit the sale of the public lands. If those lands were sold according to their real value, be it so. But, while the Government continues, as it now does, to give them away, they will draw the population of the older states, and still farther increase the effect which is already distressingly felt, and which must go to diminish the value of all those states possess. And this, sir, is held out to us as a motive for granting the present appropriation. I would not, indeed, prevent the formation of roads, on these considerations, but I certainly would not encourage it. Sir, there is an additional item in the account of the benefits which this Government has conferred on the Western states. It is the sale of the public lands at the minimum price. At this moment we are selling to the people of the West, lands at one dollar and twenty-five cents an acre, which are fairly worth fifteen, and which would sell at that price if the markets were not glutted.

Sir, any and every article may have its price run down by sending it to the market in too great abundance, and if you were to fix the minimum price at twenty-five cents, the price in the market would soon go down to that standard. Sir, it is a fact that ten millions of acres of land have been brought into market at one time. Nor is it at all to be wondered at, that, out of this vast amount, only seven or eight hundred thousand acres have been sold. Mr. McD. observed, that he would not say more on the subject at present, as he intended shortly to bring it before the House in a more distinct and formal manner.

Mr. WEBSTER observed, in reply, that the gentleman from South Carolina had mistaken him if he supposed that it was his wish so to hasten the sales of the public lands as to throw them into the hands of purchasers who would sell again. His idea only went as far as this—that the price should be fixed as low as not to prevent the settlement of the lands, yet not so low as to tempt speculators to purchase. Mr. W. observed that

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he could not at all concur with the gentleman from South Carolina, in wishing to restrain the laboring classes of population in the Eastern States from going to any part of our territory where they could better their condition; nor did he suppose that such an idea was anywhere entertained. The observations of the gentleman had opened to him new views of policy on this subject, and he thought he now could perceive why some of our States continued to have such bad roads; it must be for the purpose of preventing people from going out of them. The gentleman from South Carolina supposes, that if our population had been confined to the old thirteen States, the aggregate wealth of the country would have been greater than it now is. But, sir, it is an error, that the increase of the aggregate of the national wealth is the object chiefly to be pursued by Government. The distribution of the national wealth is an object quite as important as its increase. He was not surprised, that the old States not increasing in population so fast as was expected (for he believed nothing like a decrease was pretended) should be an idea by no means agreeable to gentlemen from those states; we are all reluctant in submitting to the loss of relative importance—but this was nothing more than the natural condition of a country densely populated in one part, and possessing in another a vast tract of unsettled lands. The plan of the gentleman went to reverse the order of nature, vainly expecting to retain men within a small and comparatively unproductive territory, “who have all the world before them where to choose.” For his own part he was in favor of letting population take its own course; he should experience no feeling of mortification if any of his constituents liked better to settle on the Kansas or the Arkansas, or the Lord knows where, within our territory; let them go, and be happier if they could. The gentleman says our aggregate of wealth would have been greater if our population had been restrained within the limits of the old States; but does he not consider population to be wealth? And has not this been increased by the settlement of a new and fertile country? Such a country presents the most alluring of all prospects to a young and laboring man; it gives him a freehold—it offers to him weight and respectability in society; and, above all, it presents to him a prospect of a permanent provision for his children. Sir, these are inducements which never were resisted, and never will be; and, were the whole extent of country filled with population up to the Rocky Mountains, these inducements would carry that population forward to the shores of the Pacific Ocean. Sir, it is in vain to talk; individuals will seek their own good, and not any artificial aggregate of the national wealth; a young, enterprising, and hardy agriculturist, can conceive of nothing better to him than plenty of good cheap land.

I may have misunderstood what the gentleman from South Carolina first said, in relation to the collection and disbursement of the revenue. I now understand his remarks as only applying to the disturbance in the currency of any portion of the country where large amounts of the revenue are collected, without being again expended. It is true, that those who make an immediate advance of the revenue to Government, must suffer if it does not return into their hands by means of sale and consumption; but he believed that the credit usually allowed by Government to importing merchants was about equal to that allowed by them to the purchasers of goods.

Mr. STEWART, of Pennsylvania, rose in support of the bill. He regretted to find the gentleman from South Carolina, (Mr. McDUFFIE,) opposed to this measure, from whose talents the friends of the general system had much to hope. With the views of that gentleman in relation to a general system, both at this session and the last, he fully concurred. He regretted now to find that that gentleman, and others friendly to the power and the

policy of making internal improvements, thought that nothing should be done until the entire extinction of the national debt, when we should enter on the general system proposed. In this he entirely differed. After applying ten millions a year to the extinguishment of the national debt, we have an annual surplus of at least three millions of dollars, making no allowance for a certain increase of revenue and diminution of expenditure. This surplus he would employ in internal improvements. During the present year, upwards of sixteen millions had been applied to the national debt; near five millions had been paid for Florida, leaving still a balance in the Treasury of more than four and a half millions. During the current year, after applying about twelve millions to the public debt, and paying all the other expenditures required, there will remain a balance of about three and a fourth millions of dollars in the Treasury. By applying but ten millions annually, the amount of the existing sinking fund, the whole of the national debt would be extinguished in about eight years, except the seven millions of United States' Bank stock, and the three per cents. which were payable at the pleasure of the Government. We shall then find ourselves with an annual surplus of from 13 to 15 millions of dollars, with which gentlemen would commence the grand system. And how are you then, Mr. S. inquired, to expend your 13 millions a year? Where will you find laborers? Where will you find engineers, practical men to superintend your numerous works? What will be the effect of throwing suddenly into circulation thirteen millions a year? It will produce an unnatural, feverish, and unwholesome circulation in the body politic. It will have the effect of another spawn, another litter of banks upon the community. It will raise the price of labor in an extravagant degree. It will require more than twice the sum to do the same work. Expend 13 millions a year, and, in less than three years, the price of labor, and every thing else, almost, will be more than doubled.

But there were other arguments in favor of an immediate, gradual, and prudent movement in this great system. You will by this means create a great school, in which your engineers will become practically acquainted with their business. You will elicit talent and educe improvements everywhere in relation to this, as well as every thing else we have attempted. You will open a vast field for the development of the mental energies of this people. Canalling was a new business in this country; and that immense improvements would soon be discovered and introduced, he had no doubt. The Secretary of War had lately offered a thousand dollars for the best plan for removing the sawyers, &c. from the Mississippi, under the act of last session, which had produced more than 300 models, which were under examination, and by which thousands would be saved to the country. Similar causes would produce similar effects, in relation to canals constructed over different elevations and surfaces. Thus millions might be saved by a careful and gradual movement, which would be lost by a hurried and wasteful expenditure, by inexperienced and of course incompetent men.

But, gentlemen are apprehensive that the general system will lose strength by providing for local objects at this time. Not so. It will gain strength. By going on now with a few objects, you demonstrate the utility of such works—you silence opposition by pointing to results, to facts. Has the construction of the New York canal injured the cause of internal improvement? Had the construction of this great work, the Cumberland road, injured the cause of internal improvement? Ask those who have travelled on it. They pronounced their opinions two days ago, on the bill to vest \$300,000 as stock in the Delaware and Chesapeake canal—a measure in which the West had no immediate or local interest—yet, in the whole nine States of the West, there were but two votes against it. Such liberal, generous,

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and high-minded conduct in the West, in relation to an object in the East, could not fail to produce an equally magnanimous reciprocation of kindness in the East, which he hoped would be displayed in the passage of this bill.

The gentleman from South Carolina, (Mr. McDUFFIE,) has contended that the West has been provided for; that they have had their full share; that the two per cent. fund has been expended on the Cumberland road. It was true, two per cent. on the sales of a portion of the public lands had been expended on the Cumberland road—and, if every cent, instead of two per cent. had been expended in the West, he contended the West would still have just claims unsatisfied. Since the organization of the Government, you have expended more than 600 millions of dollars, of which the West paid more than their equal share—and how much of this immense sum had gone to the West? Not ten millions—not one-sixtieth part.

In the last twenty years you have expended more than 470 millions—and how much of it has crossed the Alleghany? Not a fiftieth part of it—not eight millions, excluding the expenditures of the late war. He had said the West had more than their proportion of the revenue—he could demonstrate it. The revenues of the Government are derived from two sources—the customs and public lands. The customs, all admitted, were paid equally by the consumers of imported goods; of course, the West paid of the customs their full proportion. But, how is it in relation to the other source of revenue, the public lands? This was derived almost exclusively from the West; it was paid by those who purchased and improved the immense valley of the Mississippi, for which they have paid into your public exchequer more than sixty millions of dollars. Yet, we are gravely told, they have had their share. Where is it? Where has it been expended? Let the gentleman point to any expenditures of money in the West. Where are their navies, their ships? Where their great forts and fortifications? Where the immense expenditures for lights, buoys, &c. to protect and facilitate their vast internal trade? None; none. But, say gentlemen, we have done more than we were bound by our compact to do for the West; we have expended more than the two per cent. on the Cumberland road. The Cumberland road was not to be charged to the West; there is not a foot, not an inch of it in any Western state; it commences in Maryland and terminates in Virginia. But have the East no interest in the extension of this road? Will it not enhance the value of your public lands, bring them more rapidly into market, and facilitate their settlement?

The honorable gentleman from South Carolina, (Mr. McDUFFIE,) has told us that the late war was declared for the defence of the West, to repel the tomahawk and scalping knife. This Mr. S. denied. He contended that it was a war emphatically declared in defence of "free trade and sailor's rights"—it was a war declared in defence of commerce, in vindication of our neutral rights on the high seas. Who will deny that the great causes of the war were the impressment of our seamen and the plunder of our commerce? The merciless tomahawk and scalping knife, to which the gentleman has referred as an *off-set* against Western claims, was a consequence, and not a cause of the war. It was your war for "free trade and sailor's rights," that let loose the ruthless Savage on our defenceless Western frontier, whose bloody hand dealt indiscriminate destruction to all "ages, sexes, and conditions." But the people of the West, he said, had fought and bled gloriously in your war for free trade, they had poured out their blood like water, and now, when they ask for a pittance to make a road out of your ample treasury, which has drained their pockets to the last cent, was it liberal, was it generous, was it just, to refuse it?

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Mr. S. said, that he had understood the gentleman from South Carolina, (Mr. McDUFFIE,) as he had been understood, too, by the gentleman from Massachusetts, (Mr. WEBSTER,) to say that the customs were paid by the Atlantic cities; he was happy, however, to find, from the explanation just afforded by the gentleman, that he had been misunderstood; though he admitted that the duties imposed on foreign goods were ultimately paid by those who consumed them, still the gentleman insists that they are paid in *advance* by the merchants on the sea-board, and that, therefore, they had a strong claim to its expenditure in the East. This position he thought equally erroneous. The duties were, in fact, paid in *advance* by the Western to the Eastern merchants. What were the facts? It was a matter notorious to every one, that, at present, the Western merchants almost universally were in the habit of purchasing most of their goods in the Atlantic cities, New York, &c. at auction. The importer added the duties, about 33 per cent. to the price of his goods—put them up at auction, sold them to the Western merchant for *cash*—put the whole amount in his pocket, and gave the Government his bond for the duties, (about one third of the whole sum,) payable in nine and twelve months, without interest. This statement could not be controverted; the facts were notorious. Who was it then, who paid the millions which enriched the public coffers in *advance*? It was evidently the Western, and not the Eastern merchant.

The gentleman contends, however, that the money expended on the seaboard for the defence of the Atlantic cities, and of foreign commerce, is an expenditure for the benefit equally of the East and the West; that the interior has an equal interest in foreign commerce, by which their produce was carried to market. If the gentleman will consent to make us some good roads and canals, on which we can afford to carry our produce to the Atlantic markets, then he confessed there would be some color for the argument; without this, he contended, there was none.

Mr. S. said, he rose, not to enter into a general discussion of the merits of the bill under consideration, but merely for the purpose of noticing some of the arguments advanced by the gentleman from South Carolina, (Mr. McDUFFIE,) which had not been answered by the gentleman from Massachusetts, (Mr. WEBSTER,) to whom he felt much indebted for the able and disinterested part he had taken on this occasion. This object, however, he hoped he might be permitted to say, in conclusion, had peculiar merits. The work had already been commenced, and was in part finished. This road the Government was bound, by its compact with Ohio, Indiana, Illinois, and Missouri, to extend to the Mississippi river. The ground to Zanesville, as far as this bill proposes going, has been carefully surveyed; the route of the road located and fixed, and the estimates all completed and deposited in the proper department: we have the money; a balance of several millions will remain in the Treasury at the end of the year, idle and useless; he therefore hoped, that the pittance asked for, \$150,000, to prosecute this grand, this noble undertaking, equally important to the East and the West, as a great national thoroughfare between the Atlantic and Western World, would be granted. The liberal disposition just displayed by the gentlemen of the West, in relation to the Delaware and Chesapeake Canal (nine Western states giving but two votes against it,) he hoped would be reciprocated by their brethren of the East, by their concurrence in the passage of the bill under consideration.

Mr. WOOD, of N. Y. then rose and said that he was not now going to enter into any constitutional discussion, but merely to appeal to the generosity of the friends of the bill, by asking them to put it on a footing where those who differ from them on the constitutional ques-

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Western National Road.

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tion can agree with them in its support. If they will so modify the bill as to put the construction of this road under the superintendency of the Legislature of Ohio, I will agree in its support. Great waste must always occur where this is not done—I have authority in saying, that fully one third of the money expended on the Cumberland road—(in support of this assertion, Mr. W. referred to a book lately published by Major Long, which makes in effect, if not in terms, the same declaration.) If the gentleman will strike out the twenty per cent. in the amendment yesterday offered by the gentleman from Pennsylvania, (Mr. BRECK,) and insert seventy-five per cent., I will agree to vote for it. It will then remove the constitutional scruples, by giving the local superintendence to the local authority. The want of such superintendence was the great error in respect to the Cumberland road. There was no preservative authority—no tolls—no repairs—but the road was suffered gradually to go to ruin, and Congress will soon have to make appropriations to repair that road. The plan now proposed avoids these evils; and, if it is adopted, I (said Mr. WOOD,) will vote for this bill; in its present form I must vote against it.

Mr. CAMBRELENG, of New York, differed from the gentleman who had preceded him, as to the operation and influence of national expenditures. It was in his view immaterial whether they were upon the ocean or the land, their beneficial influence was felt throughout the Union. It was an error to suppose that our expenditures for our commerce, navy, &c. were for the exclusive benefit of the Atlantic states. The beneficial influence of every expenditure of this kind would reach even the confines of Mexico, and the remotest hamlet on the Missouri or Mississippi, by enlarging the market for all our productions. On the other hand, it was equally an error to believe that the Atlantic states derived no benefit from our national expenditures beyond the mountains; every such expenditure would spread its influence to our Atlantic borders, and though not every where in an equal degree, through every part of the Union. He had therefore heard, and not without surprise, the question argued, as if the benefits of a road or canal were limited to the particular country or state through which they might pass. The advantages enjoyed by the state where the work may have been executed, were unquestionably great, but greater still were the ultimate advantages of the interior whose productions were destined to pass through this channel to market. Take, for example, the Erie canal—a work which would do honor to any country—however important were the benefits which that great work had bestowed upon the state which he had the honor in part to represent here, still more important were the advantages to the interior. The people of New York, it is true, enjoy a market for their own productions; but they are besides, the agents of the North and the West, whose productions are increasing in value, and are transmitted through this channel. It is impossible to measure the benefit which this canal must hereafter bestow on our interior country, when we look at its vast extent, and reflect that its productions are annually increasing. He, therefore, considered the location of a great work of this character not as the principal theatre of its benefits. So with the Cumberland road; its advantages were chiefly and permanently to be felt in that country beyond it, whose productions reach a market from which they had been previously excluded.

Gentlemen seemed to think that New York had great complaints to make against this Government for rejecting its applications for assistance. Mr. C. thought they greatly misunderstood the sentiment of his constituents, and of the people of the state of New York. Whatever regret they might have felt when the Federal Government refused its incidental aid in executing their canal, it was to them now, a matter of congratulation, that, by

this refusal, their state, aided by its own resources alone, had commenced and executed the most magnificent work of this kind in our country, and one probably equal to any this Government will ever execute. He took the occasion thus to speak of this great work, because he had been one of those who thought it premature. He would frankly confess, (as he should always do when he found himself wrong,) that he had calculated erroneously. He was gratified to find that the result had realized even more than the most sanguine anticipations of its friends, and that it had given an impulse to almost every work of the kind in the Union. The people of New York now rejoice that the Federal Government rejected their petitions, and deprived itself of a share in this great work, and they are too sensible of the advantages they enjoy, to deny, on that account, to the General Government, the exercise of all its constitutional powers in the execution of similar works connected with national purposes.

Mr. C. said he had hitherto uniformly, but silently, opposed measures of this character, only from a doubt of the constitutional power of the Federal Government. He had, however, devoted much attention to the question, and, after mature deliberation, he had been led to the conclusion, that, if a Government, enjoying the entire post-road and military powers of this Union, could not constitutionally construct a road or a canal, then it had no incidental power whatsoever. He had, accordingly, for the first time, given his vote in favor of a subscription to the Chesapeake and Delaware Canal. He considered that canal as one of the links in the great chain of inland communication from the centre of Carolina to our Northern Lakes, of which the Erie canal formed another link, connected, as they would soon be, by the waters of the Hudson and the Jersey canal—and again, from Carolina, along the Atlantic, to Massachusetts. He was, however, not to be understood as favorable to any particular or great scheme of internal improvement to be executed by the Federal Government; he preferred confiding this branch of legislation generally to State Governments—but he was prepared to lend incidental aid in some cases, and to execute directly others, which he considered as of a character more national, and which, from the nature or state of the country, never could be executed by the authority or resources of any state. He considered the work now under consideration, more peculiarly national than any which had been projected, and it was immaterial to him whether the expenditure was made out of the Treasury, or out of any particular proportion of the proceeds of our public lands. Besides the great national object of connecting the West with the Atlantic, by a direct route, we had a direct national interest in opening avenues to our public lands. There can be very few works of this character to which the funds of the nation will be applied. For himself, he should judge of each work as it might be presented to their attention. He preferred this course—it was moderate. In this way, something may be effected. He preferred this practical course to any theoretical opinions or the anticipations of a magnificent system of internal improvement which might never be realized. He should wish the attention of the Federal Government limited to a few great works, and that they might be decided on as required.

As it regarded the time and the means, he could not think any moment better than the present, if it was our intention ever to do any thing. At the last session a serious attack was threatened on our revenue system—but happily it was not successful. We can now, with greater certainty, estimate the revenue of the country. Should there be no war—and there is at present no particular reason why we should anticipate one, the public debt will unquestionably be entirely extinguished in ten years. Besides this, there must be, in the aggregate, an increase of revenue beyond the amount required for the

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Yazoo Land Claims.—Niagara Sufferers.

[Sen. &amp; H. of R.]

redemption of the debt within ten years, growing out of an annual and natural augmentation of population, wealth and trade. Some portion of this surplus might, without inconvenience, be devoted to these objects. Should we, however, postpone these measures, as gentlemen desire, and should a war intervene, we shall then have occasion to lament that we had permitted this opportunity to escape. He believed our surplus means were fully adequate to an annual expenditure as great, at least, as he was willing to vote for, and he should sincerely regret any delay. With regard to this particular road, he felt persuaded there was no constitutional impediment to our constructing it—the road was national in its character, and national in its beneficial influence—it would benefit every part of the Union. It would be difficult to ascertain, with mathematical precision, which portion of our country would be benefitted more than another; but it would be still more difficult to find a spot within our boundaries which would not feel the advantages of the Cumberland Road.

Finally, the question was then taken, by Yeas and Nays, and decided as follows:

YEAS.—Messrs. Alexander, of Tenn., Allen, of Tenn., Allison, Baylies, J. S. Barbour, Bartley, Beecher, Blair, Bradley, Breck, Brent, Burlingh, Call, Cambreleng, Campbell, of Ohio, Clark, Cook, Crowninshield, Cushman, Durfee, Dwight, Ellis, Farrelly, Forward, Fuller, Gazley, Gurley, Hayden, Hemphill, Henry, Holcombe, Houston, Ingham, Isaacs, Jennings, Johnson, of Va., J. T. Johnson, F. Johnson, Kent, Kremer, Lawrence, Lee, Letcher, Little, Livingston, Locke, M'Arthur, M'Kee, M'Kim, M'Lane, of Del. M'Lean, Ohio, Mallary, Martindale, Mercer, Metcalfe, Miller, Mitchell, Md. Moore, Ky. Moore, of Alab., Neale, Newton, Owen, Patterson, Penn. Patterson, of Ohio, Plumer, of N. H. Poinsett, Reed, Reynolds, Ross, Sandford, Sloane, Wm. Smith, Standefer, J. Stephenson, Stewart, Storrs, Test, Thompson, of Ky., Tomlinson, Trimble, Udree, Vance, of Ohio, Vinton, Wayne, Webster, Whittlesey, White, Wickliffe, James Wilson, Henry Wilson, Wilson, of Ohio, Wolf, Woods, Wright—93.

NAYS.—Messrs. Alexander, of Va., Allen, of Mass. Bailey, Barber, of Conn. P. P. Barbour, Bassett, Buchanan, Buck, Campbell, of S. C., Carter, Carey, Cocke, Collins, Conner, Crafts, Craig, Culpeper, Day, Dwinell, Eddy, Edwards, of N. C. Findlay, Foot, of Conn., Foote, of N. Y. Frost, Garrison, Gatlin, Gist, Govan, Hamilton, Harris, Harvey, Herkimer, Hogeboom, Hooks, Jenkins, Lathrop, Leftwich, Lincoln, Litchfield, Livermore, Long, Longfellow, M'Coy, M'Duffie, Mangum, Matlack, Mitchell, Penn., Morgan, O'Brien, Olin, Plumer, Penn., Randolph, Rankin, Richards, Saunders, Sharpe, Sibley, Arthur Smith, Alexander Smyth, Spaight, Sterling, A. Stevenson, Stoddard, Swan, Talat-ro, Tattnall, Taylor, Ten Eyck, Thompson, of Penn., Thompson, of Geo. Tucker, of Va., Tucker, of S. C., Tyson, Vance, N. C. Whipple, Whitman, Williams, of N. Y., Williams, of Va. Williams, of N. C. Wilson, of S. C. Wood—82.

So the bill was ordered to be engrossed for a third reading.

IN SENATE.—WEDNESDAY, JAN. 19, 1825.

## YAZOO LAND CLAIMS.

The Senate took up the report of the Judiciary Committee, unfavorable to the petition of Ebenezer Oliver and others, Directors of the New England Mississippi Land Company.

[The petitioners appeal from a decision of the Commissioners appointed to carry into effect the compromise between the United States and the holders of Yazoo lands, under the act of 1814. The report sets forth; That, before the Commissioners, the petitioners, as trustees of the New England Mississippi Land Company, claimed, as the persons entitled to the one million five hundred and fifty thousand dollars, directed to be issued to the Georgia Mississippi Land Company; their claim to

indemnity for 957,600 acres, amounting to \$130,425, was resisted in behalf of the *Georgia Mississippi Company* on the ground that the consideration money for said lands had not been paid, and that, therefore, they were, in equity, entitled to the indemnity provided by the act of Congress. The Commissioners decided in favor of the *Georgia Mississippi Company*, and the 130,425 dollars were deducted from the amount awarded to the New England Mississippi Land Company, and distributed as follows: \$50,608 48 to individual members of the *Georgia Mississippi Company*, who had released to the United States, under the act of 1814, to whom the same has accordingly been paid; \$79,816 52 was reserved to the United States, as being the shares of those claimants, who, not having been paid the consideration money by the persons who had purchased of them, claimed to be still the legal and bona fide owners of said lands, and, as such, had availed themselves of the provision of the repealing act of the state of Georgia, and obtained the repayment of the consideration money by surrendering their titles to the state. The petitioners object to this decision as erroneous, and they ask to have the \$132,425 paid to them by the United States, or their release to the extent of the \$957,600 acres cancelled, so that they may assert their title to the lands in a court of law.]

The committee, for the reasons which they set forth, declare the prayer of the petition unreasonable, and that it ought not to be granted.

Mr. MILLS moved to reverse the decision of the committee, so as to declare the petition reasonable; and followed his motion with a speech of considerable length, and much earnestness, in support of it.

Mr. HOLMES, of Maine, (a member of the Judiciary Committee,) replied to Mr. MILLS at equal length and earnestness, in support of the report of the committee, and against the petition.

Mr. LLOYD, of Mass. followed, in support of the petition, and against the report.

Mr. TALBOT, (a member of the Judiciary Committee,) followed Mr. L. on the same side, and addressed the Senate more than half an hour, in support of the justice of the petition, and against the report.

The debate had continued between two and three hours, when Mr. TALBOT had concluded; and Mr. VAN BUREN, (chairman of the committee who made the report,) expressing a desire to submit his views in its support, asked to be indulged until to-morrow, as the hour was now late, and moved to lay the report on the table; which was agreed to.

## HOUSE OF REPRESENTATIVES.—SAME DAY.

## NIAGARA SUFFERERS.

The House passed to the order of the day, which was the third reading of the bill "further to amend the act authorizing the payment for property lost, captured, or destroyed, by the enemy whilst in the service of the United States, and for other purposes."

The bill was accordingly read a third time, and the question being "Shall this bill pass?"

Mr. VANCE, of Ohio, rose, and said, that before the question was taken, he wished for the reading of one of the documents which had been received from the Departments, showing the amount of moneys which had been already paid for losses on the Niagara frontier. He was persuaded that, on this subject, a mistaken idea was still entertained by many gentlemen who supposed that the \$500,000 and upwards, awarded under the act of 1816, had all been paid for the buildings destroyed on that frontier. The several parts which made up that sum, had now been separated, and it would appear that, instead of \$500,000, there had been paid to these unfortunate claimants on that frontier, who had suffered more in the last war than the whole of the rest of the Union, but \$64,000.

The documents were read accordingly.

Mr. TRACY, of New York, then rose, and observed,



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that, after the debate which had already occurred on this bill, he felt very reluctant again to intrude himself upon the House, especially in a state of health, which, in a great measure, unfitted him to address them, yet such were the peculiar circumstances of the bill, since the papers called for by the gentleman from Va. (Mr. MERCER,) had been produced, that it was his unavoidable duty to say a few words respecting the character of those who are the claimants in this case. Those unfortunate men had been presented before this House as a band of traitors and swindlers. A letter had been produced from a certain Mr. Willis, which contained statements calculated to show that there had existed among them a traitorous and swindling combination to defraud this Government; and, as that letter had not yet been explained, Mr. T. said he felt it incumbent upon him to make some remarks upon it. He would say in general, that that letter contained, from the beginning to the end, little else than a tissue of falsehoods. Nor should he consider them as requiring any refutation, did he not fear that some members had not given their time and attention to the examination of the documents on the table. We have been told, said Mr. T. that, by this combination, a sum of \$500,000 has actually been obtained—obtained by fraud and falsehood. But, in the first place, of all the sum which had indeed been paid out of the Treasury, the claimants in this bill had received less than one-sixth for all their immense and unparalleled sufferings. There had been more money paid to three single claimants in Washington, than the whole amount that went to all the sufferers on that entire frontier. What had been the result? Instead of having been enriched by fraud, these sufferers, after having been subjected to what he must denominate, the greatest instance of partiality in the history of this Government—after having their claims postponed year after year, and now delayed from week to week, they had been abused on this floor, as villains and swindlers; yet there existed the most incontrovertible proof that the estimate of losses which they had submitted to the Government, was not only not grossly overrated, but that it was scrupulously accurate. Even the report of the Committee of Claims, which was adverse to the petitioners, admitted that the estimate was as fair as the circumstances permitted it to be. But he relied on the report of no Committees. The House had before it the report of a Board of Commissioners, two of whom were of its own number—men of the most unimpeachable integrity and honor, and the third, a gentleman of known probity and talents, who had gone upon the spot, accompanied by an agent of the United States, and who had subjected those statements to the most rigid examination. They had made a report of the result—a report not general but particular in its statements; in which they expressed themselves entirely satisfied that the losses stated had actually been sustained. That report, with all the estimates, are contained in two volumes, which have been in the possession of this House for years. But they have not been read; they are not examined; and without so much as opening the book, a letter is brought from this Mr. Willis—a letter written professedly from hearsay, and containing on the face of it manifest falsehoods, to set aside the whole mass of documentary evidence, and prove these claimants to be a collection of cheats and liars. He might call on twenty gentlemen, now on this floor, who were witnesses to the falsehoods of some of the statements contained in this letter. The House might judge what sort of credit this traveller is entitled to, when he tells us that Buffalo, when it was destroyed, was nothing but a collection of log buildings: Buffalo, a collection of log-houses! Sir, need I appeal to your gazetteers—to the statistical documents of the state of New York? May I not appeal to any and to all who ever visited it, to testify that it was a beautiful village—the pride of the West part of the state of New

York. Some of the buildings it contained were highly elegant; all of them were comfortable and respectable dwellings. The letter says, that such was the combination among all parties to falsify the truth, that he could get no correct information. Sir, I believe him—at least he has stated none: and, after such aspersions, I feel it my duty, in vindicating the character of these claimants, to refer to their services as well as their sufferings. Sir, there is no part of the population of this country which either served or suffered, in the last war, to the extent that they did. They are called fraudulent villains, who wish to prey upon the country, and cheat the Government; but look at their public services in defence of both.

Sir, the Niagara frontier was the common fighting ground through campaign after campaign of that war. That narrow space of thirty-six miles was the common goal for both armies. It never was, for ten days in succession, in the possession of either, nor was it in their quiet possession for a single day. At the glorious, yet unfortunate battle of Queenstown, these men turned out and volunteered their service. When the invasion of Canada was projected, they volunteered in the capture of Fort George; and afterwards, when 5 or 6,000 of the American troops were hemmed in within that fort, these same men turned out and drove back the enemy. In July, while the American army was invested in Fort George, and every regular American soldier was within that fort, these aspersed inhabitants again turned out, from the oldest to the youngest—repulsed the British, and left their commander dead on the field. This was done exclusively by the inhabitants of Buffalo. When they were afterwards called to Fort George, for a third time, and a third time disappointed, they had to embody for their own defence. It was then that the frontier was invaded; and the long and melancholy list of victims who fell in the contest, on that occasion, shows that the people of that frontier did not shrink from the performance of their duty. In the summer of 1814, when British barbarity had left them houseless and homeless, utterly ruined, and in want of all things, induced, perhaps, partly by despair, they voluntarily joined the regular army; took part in the capture of Fort Erie, and shared in all the honors and sufferings of that bloody campaign.

Mr. T. concluded by observing that he should not attempt to recapitulate the course of proceedings on their claims. He only wished to satisfy the minds of any who doubted, that all had been done which the nature of the case admitted, to satisfy the Government that their claims were righteous, and had been pursued by rightful means.

Mr. STORRS, of New York, then rose and said, that when the gentleman from Virginia, (Mr. MERCER,) had called for the documents which had been laid upon the table, he had voted to sustain the call; and he had done so, because he was persuaded that no document which might be produced, could do away the evidence of his own senses, or destroy that knowledge of facts which he had obtained from personal observation as an eye witness. He regretted the delay, but he rejoiced that those documents had been called for and produced. And he would now ask the attention of the House to a short examination of them. Part of these documents had been called for under a supposition that more had been paid for than had ever been lost. The House had now before it an estimate of the value of the houses on that frontier, in the year 1815, two years after the destruction by the British—a document which certainly does not show what the village of Buffalo was in 1813, before it was destroyed. Of the formidable amount of \$533,000 which had occasioned so much alarm in the minds of some gentlemen, it now appeared that \$350,000 had been paid for the loss of personal property, and of the balance paid for buildings destroyed, the sufferers on the Niagara frontier got only one half. A letter was produced from a Mr. Willis, who appears to have travelled in that

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country—but when? In 1817, while Buffalo was yet in ruins, and just beginning to be rebuilt. He says he was told, (and from this it may be judged what credit is due to the other information detailed by him) that, before its destruction, it had consisted almost entirely of log houses. Here Mr. S. quoted an article from Spafford's Gazetteer, of New York, which he had found in the Library, from which it appeared, that in 1813, the village of Buffalo contained 100 houses, 15 stores, a court house, and other public buildings; and that among its inhabitants there were 151 Senatorial voters, each of whom must, by the laws of New York, have owned a freehold worth 100*l*. The village was the seat of justice for two counties. In confirmation of the truth of these statements, as to the village, Mr. S. appealed to an honorable gentleman from Ohio, (Mr. M'ARTHUR,) who, in that year, had led a detachment of the United States' army along the southern banks of Lake Erie, and could testify, from personal observation. It was manifest, that this Mr. Willis, though he might not himself intend to deceive, had certainly been imposed upon by others, having probably fallen in company with some person maliciously hostile to one or more of the claimants.

The present bill proposes to grant for the relief of the Niagara sufferers, and all who have suffered in the same manner, \$250,000, restricting the relief, however, to those whose claims have been presented before the Commissioner. The limitation of the gross amount will operate as an effectual safeguard against fraud. Every fair claimant will be led by his interest to detect and expose it. The moment a new claim is presented, those who have already presented claims will be immediately alarmed; they will inquire into the circumstances, and, if the amount has been overrated, they will combine to prevent the fraud for their own sakes. This was a security never provided by any former bill, and it was a most complete and effectual security. It must necessarily exclude all false and fraudulent claims, so that all fears of gentlemen on that subject, and all arguments from such fears, must be at an end.

Mr. M'ARTIUR, of Ohio, rose, not to speak to the merits of the bill, but to state facts within his knowledge respecting the village of Buffalo. He happened to land there in 1813, with the troops under his command, in a snow storm, and, being unprovided with tents, the army was under the necessity of using almost every house in the village for barracks. There was scarcely a building in the village, some part of which was not occupied by troops. He continued there during the storm, which lasted three or four days, and he had an opportunity of seeing the buildings, &c. The village was flourishing: the buildings were very good for a new town: there were many brick buildings, and a few frame ones: There were but very few log houses, and those only on the borders of the town. He had been there afterwards, also: and he was bound to say, that the information which Major Willis had given to the Department was incorrect, and not worthy of the consideration of this House, or he was very much mistaken. Mr. M'A. said, he also knew, that the whole frontier was continually occupied by troops of the United States. It was unavoidable that it should be so, there being no tents or barracks provided. The officers were compelled to occupy private buildings, either by consent of the owners, or otherwise. The private buildings were essential to the maintenance of the army on that frontier. Mr. M'A. concluded by saying, that he only rose to state that the information furnished by this Major Willis was incorrect.

Mr. MARVIN, of New York, then rose, and said, that he had visited the village of Buffalo, once at least in every year, from 1807 to 1812. He knew the village as well nearly as if he had lived in it, and could assure the House, that the houses in it were in general frame houses; many of them were of brick, and one large one was of

stone. He had no distinct recollection of more than two log buildings in the whole village, and they were in the outskirts. There might, however, be some others, which had escaped his recollection. About two miles from the village, the British destroyed a brick building of great elegance, and in size and extent scarcely surpassed by any in this city. It had been rebuilt, of the same size, and near it stood a very large frame building, with extensive premises occupied as a public house.—The entire establishment was on a large and liberal scale.

Mr. WILLIAMS, of North Carolina, rose to say a few words as to the testimony of Mr. Willis, which had been made the subject of remark. He had had a slight acquaintance with that gentleman, during the time of his residence in this city. He understood him to be, and he was received by all as a man of honor, and entitled to credit. This, said Mr. W. is the estimation in which he was held by me. If any different estimate of him existed, I am not apprized of it. His statements may, or may not, be correct. If they are not correct, I believe that he was imposed upon, and that he would not have knowingly made any statement which was not true. But, sir, I do know one fact. Many frauds upon the government have been attempted to be committed, if not on that frontier, on the St. Lawrence frontier, and reasons have been presented which have induced the committees of this House to scrutinize with great vigilance all claims of this description. No doubt most of the houses on the frontier were occupied by the troops of the United States; but the question is, was it such a permanent occupation as to give to those houses the character of barracks? In my opinion, said Mr. W. it was not. For, from the 4th of July, 1813, to the burning of Buffalo, there were very few troops on that frontier, or the committee, in its examination of the subject, in 1818, had been very much misinformed. On this frontier of 36 miles, until a short time previous to the burning, there had been in service forty militia, who surely could not have given the character of military occupation to the whole of that frontier. Is the House prepared, under those circumstances, to vote a compensation for the losses by individuals on that frontier? Mr. W. concluded his remarks by saying, it had always appeared to him that the principle of this bill was such a one as no government could sustain; and he was, therefore, decidedly opposed to it.

Mr. M'C'OY, of Virginia, observed, that he was sorry to be obliged to say any thing on the present subject. It was not the sum to which he objected. He was willing to give this amount to relieve those persons who, he did not doubt, had suffered most severely. It was the principle of the bill to which he objected. He had risen too, for the purpose of defending the character of Capt. Willis, from some allegations respecting him, which had fallen from the friends of the bill, and which he did not conceive to have been justified by that gentleman's letter. He had long served the United States with credit. He presumed that that gentleman had received some incorrect statements; but he did not conceive that his language went as far as some gentlemen seemed to understand it to go. The log houses of which he spoke, were not in Buffalo exclusively, but along the frontier generally. And what he stated with respect to fraudulent attempts and combinations, had reference, probably, to personal property lost, as much, if not more, than to the houses which had been destroyed. We all do know, said Mr. M'C. that there existed, at that time, at least a very general rumor, that great frauds had been attempted on the government—he did not say by the sufferers in Buffalo more than by those elsewhere. He was inclined to believe, that the estimates of property lost on that frontier, were quite as fair as those which had been exhibited from other parts of the country. Yet, every body knew that there did exist, at one time, a gang of swindlers, headed by a notorious fellow by the name of

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Jones, who had preferred false claims, supported by fraudulent papers, and that to an immense amount. The money which was paid for houses destroyed, was little in comparison to what had been paid for horses, for oxen, for wagons, for muskets, for military accoutrements, &c. The great bulk of what had been paid, was for personal property. The sufferers, however, had already received \$64,000 for houses, and probably twice as much for personal property. Still, Mr. McC. said, he was willing to vote the sum proposed, but could not consent to support the present bill.

Mr. FOOT, of Connecticut, said that he did not rise for the purpose of resisting any equitable claim preferred by the inhabitants of the Niagara frontier; yet he must oppose the present bill, on account both of its form and its principle. The principle was one which never had been recognized by any country, that a building which had been destroyed by the enemy, must be paid for by the Government, because it had, at any previous period of the war, been occupied as a barrack—it was what he never could consent to. He could not even consent to the doctrine of the gentleman from Massachusetts, (Mr. WESTER,) that its having been made a place of military deposit obligated the Government to pay for it, unless it appeared that that occupation was the cause of its destruction. Another objection to the bill was, that it was partial in its operation. It does not meet all the cases which ought to be provided for. It confines its benefit to those claimants only who have applied to the commissioner under the acts of 1816, '17. Now, those acts were variously construed in various parts of the country; and, while persons in one place may have supposed themselves included in its provisions, and so exhibited their claims to the commissioner, persons in another place may have understood the law differently, and, in consequence, made no such application: and yet both might be alike entitled to relief by the present bill.—The bill, besides, contains manifest inconsistencies. It says, in one place, that, as soon as the evidence is exhibited to the Auditor, the money shall be immediately paid out of the Treasury. It says in another place, that if the Auditor is not satisfied, he shall suspend his decision, and of course suspend payment: and as it says in another place, that the payment is to be made *pro rata*, the whole must be suspended until he is satisfied with the evidence on each particular case.

Mr. M'DUFFIE rose, to state the grounds on which he felt himself bound to vote against this bill. To shew the reason for his present vote, it would be proper to show the practical difference between the acts of 1816 and '17 and this bill. The act of 1816 was passed immediately after the war, when the calamities upon the Niagara frontier made the strongest impression upon Congress. The Congress of that day were more sensible, from events then of recent occurrence, to the claims of those people, than, after the lapse of ten years, this Congress could be. The law passed by that Congress provided that all buildings occupied by the United States, and destroyed in consequence of such occupation, should be paid for by the United States. Now, this bill omits the restriction, contained in the act of 1816, which fixed the character of the claims to be allowed. For, what is the amount of this bill? That the circumstance of property being occupied by the United States, though not destroyed in consequence of such occupation, should furnish just ground for a claim for remuneration for its destruction for other cause than that. Is this right? The property on the Niagara frontier was occupied by the United States: it was destroyed by the enemy. Why was it destroyed? Because it was so occupied. There is no such fact required to be established, it being admitted by this bill that the fact is not necessary to constitute a claim for indemnity. The act of 1816 provided, that, where property was destroyed by the enemy, whether justly or not justly, in consequence of its occu-

pation by the United States—if it was shewn that the occupation of the property drew the enemy to it, the loser should be remunerated for his loss. This bill, however, went far beyond that principle, and went to provide compensation in cases where there was no consequential destruction, but the destruction was an act of gratuitous vengeance, not justified by the usages of civilized warfare.

I should have no objection to this bill, if it were not for the principle which it will go far to establish. What is it that gentlemen contend? They tell you that all the houses on the frontier of the United States were occupied as barracks. Very well. They go further, and tell you, that that occupation gave to the enemy the right to destroy them. Is that a principle of the law of nations? No, sir: it is a principle which I never will admit—a sanguinary and vindictive principle, not recognized by the usages of civilized nations. Gentlemen say, the enemy destroyed the houses because he knew that our armies could obtain barracks no where else than in the private houses; that he destroyed them to prevent the concentration of a military force on that frontier. But, sir, our armies depended on the product of that frontier for subsistence, as well as for shelter: and surely gentlemen would not contend that this fact would authorize the destruction of crops, or laying waste the country: and yet to that point, their principles would carry them. An enemy has a right to destroy fortifications, and public property of a military character, but he can have no right to destroy inoffensive private buildings or property.

This bill, Mr. M'D. said, went still further than the extent he had already mentioned. It proposes, said he, to give compensation for property destroyed, even in cases where property was in possession of the United States by virtue of *contracts* between the individuals and the United States. Let us apply to such a case the common law regarding contracts between individuals—he did not mean the technical principles of law, but the broad principle of justice. If a man is in occupation of the property of another, and that property is destroyed whilst in his occupation, is he bound, unless the destruction is caused by his own act, to pay the value of that property to the owner of it? Certainly not. These people on the Niagara frontier, who rented their houses to the Government, were aware of the danger they incurred; are they to be compensated for the destruction of their property, when it is apparent that it was not destroyed in consequence of its occupation? If the subject were here to be taken up *de novo*, I should maintain, that persons who had rented their houses to the Government, were not entitled to remuneration if their houses were destroyed in consequence of their occupation by the United States—for they knew the danger they ran, and the consequences they had to encounter, when they made the contracts. Much less should such persons be reimbursed when there was no evidence that the destruction of their property was the consequence of its occupation.

There was another reason, Mr. M'D. said, why he was opposed to the bill. We are sending to an officer of the Government, said he, to determine a question of the utmost difficulty, which we had much better determine for ourselves. He referred to the testimony of the gentleman from Ohio, as to the nature of the occupation which had been called a military occupation. A few soldiers had been quartered in the House with each family. Was this a military occupation? Are we to give compensation in all cases in which property, which has been thus occupied, is destroyed by an enemy? If this bill passes, every house destroyed on the frontier will become the subject of a claim. He was opposed to opening so wide a door to frauds.

Mr. M'D. said he should vote against the bill on another principle, and on the same ground he would vote upon all bills. The principle involved in this bill had

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been decided at least twenty or thirty times by this House, in the rejection of particular claims presented here by individuals. My ground is this: that, in deciding on claims, we act in a judicial character. I never will consent that Congress shall be teased into the allowance of such claims. I will not yield to importunity and perseverance what I would not grant to justice. We have repeatedly decided, that, unless the destruction of property by the enemy was in consequence of its occupation by the United States, compensation shall not be granted to the claimants. Where a decision has once been made on this floor against a claim, unless some new testimony is adduced in support, I will make that decision a reason for voting against the claim as often as it shall be afterwards preferred.

Mr. GAZLAY, of Ohio, said it was with feelings of regret, that he felt himself compelled, on any occasion, to say any thing in this House. He should not now do so, were it not for the avowal of some principles by the opposition to the bill, which principles he thought not warranted by, but dangerous to the best interests of our Government. The proposition is to remunerate these American citizens whose houses or buildings have been destroyed by the enemy during the late war. Not all which have been so destroyed, but those only used by, or in possession of, our Government for some purpose connected with our military operations at the time they were destroyed. The principal objections are, that, according to the rules or laws of monarchical nations, we are not bound to make this remuneration; that we are not bound to make it, except the property were a subject of lawful destruction according to the rules of civilized warfare; and that, to make it on the principles of this bill, is calculated to invite destruction by the enemy, and to take away every object which the citizen himself might have to defend his property against that enemy; also, that it will impoverish and perhaps bankrupt the nation.

Mr. G. said he thought we had gained something by the great exertions which had consumed our present form of Government, and that this something was not a bare name; that he recognized not a partial, a limited, a personal philanthropy, as emanating from it—but one commensurate in every civil relation with the extremest verge of our vast territory; he could not look upon our boasted freedom as having secured nothing but a recognition of those rules which it was established to destroy. If he understood our principles, they were better than others only as they caused the weight of Government to fall more lightly, inasmuch as it falls more equally. Their true meaning, he conceived to be, the rights, the justice of all, instead of the rights and justice of the few. If, practically, the Government could not be thus administered, he had no hesitation in saying it could not and ought not to continue. If war came in its fearful calamity, it must be the war of all; all are bound, equally bound, to defend, even at life's peril. If it bring its ravages, its losses, and devastations, they are like our common dangers, our common toils, the loss of all; nor could he see that this principle was to unnerve the arm, or dampen the ardor of the American citizen or soldier. It was with a view to the directly opposite effect that he supposed it to belong to our system. Certainly when the injuries inflicted by the enemy, are at the expense of a general contribution, the inducements to defend must be general and strong in proportion to the threatened extent of such injury. If the loss is to be that only of the actual sufferer, then he who avoids most, and is most recreant, is like to be the least sufferer. The promulgation of this principle before the last war, he had no doubt, would have removed many constitutional scruples, and saved much property. The heaviest portion of sufferers to be provided for by this bill, are those of the Niagara frontier. If the greatest possi-

ble distress, the greatest possible fortitude and bravery, and, he might say, the greatest neglect from their Government, could entitle men to consideration, then were these sufferers entitled to the last farthing of their losses. But it is said the principle will impoverish us—it will drain and exhaust the Treasury. He conceived it was now too late to urge this objection; it might have answered as an argument against the adoption of our free constitution equally well with the impoverishing effects generally of war; but now the question is, shall we, like true men, maintain the spirit and meaning of the confederation, or shall we lay the foundation for disaffection and dissolution, by a partial regard to and execution of them? The bill is, however, limited to such property only as has been occupied by the Government for military purposes, and destroyed while so occupied. Against the imperious justice of such a bill, he could not even anticipate a solid objection, much less could he anticipate danger in the passage of it. It was deficient, because it was too narrow: he wished he had the power, by his vote, to remunerate all the brave men who had lost by one common calamity, the last war. He would not make them rich because they suffered, but he felt bound—he felt that the principles of his Government, as well as those of his heart, bound him to vote a fair payment of losses.

Mr. M'DUFFIE rose in reply, and said, that so far as he understood the remarks of the gentleman from Ohio, they amounted to this: that a Republican Government is bound to pay every claim presented to it, whether just or unjust. If so, he desired to be understood that he was not a Republican of that class.

Mr. GAZLAY answered, that he had not thought, much less said, any thing to warrant the remark which had just fallen from the gentleman from S. Carolina.

Mr. MERCER then rose, and said that, as the documents on the table had been furnished at his own suggestion, he felt himself called upon to make some remarks on the evidence they contained. He should not persevere in the general argument, but for himself he was not prepared to pass the bill, even if he was satisfied that its principle was just, because he had not the information on which alone he conceived it proper to proceed. The evidence which he wished for had respect to the value of the property lost in the village of Buffalo. This he could get only by calling on the Departments. He knew that the facts could be proved there only. This was his reason for delaying the bill in order to make that call. He was disappointed in the result, inasmuch as it appeared that the documentary evidence he had desired to obtain, was in the hands of an agent in the State of New York, and had not been returned to the Department.

It would have shown what losses were proved before the Commissioner, under the act of 1816. He was also disappointed at finding that there was no evidence in the Department of what had been the total amount of all the claims presented before the Commissioner, from 1816 to 1818. Many of these had been returned to the claimants for the purpose of being further confirmed, and others because they had been finally rejected. Under the bill now pending, should it become a law, these claims would all come back again before the Third Auditor. There was a second class which had been presented, but not acted on, and there was also a third class on which reports have been made. As it was, the House could hope only to get the amount of value of one class; and he asked, if gentlemen were prepared to pass the present bill, without knowing what is the amount of the claims which it would cover? The bill says that, if the claims exceed a certain amount, the payment is to be made *pro rata*. On what? On the amount lost? No, but on the sum granted by us to pay those losses. Does not the House thus dishonor itself and the nation?—

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Wherein did this differ from taking out a commission of bankruptcy, except that there was no person to act as Commissioner (unless, indeed, we consider the Third Auditor in that character?)

If the sum to be granted is limited, it must be considered as a grant made on principles of humanity; but even on the principle of humanity, the House ought to know what all the claims were. Suppose the rate of payment turns out to be 50 per cent. and a rich man presents a claim for 100,000 dollars, and a poor man for 100 dollars. The one is still rich—the other has lost his all. Would humanity lead you to pay the rich man \$50,000, while you paid the poor man only fifty? It would not bear the test of examination. He held it impossible to distribute compensation under this bill without being exposed to gross frauds, &c.

With reference to the nature of some of these claims, Mr. M. referred to a case in which a parcel of swords had been found in a house at Buffalo, which had been considered sufficient ground for a claim for indemnity for its destruction. It appeared also, from the documents, that the commander of the American forces there, who had lost a house not worth \$1,500 had obtained from the Government upwards of \$17,000, his claim having been put in for a larger amount. He was a doctor, it seemed, and the United States had paid for all the Glauber salts, jalap, &c. which had been destroyed.

Large sums of money were also claimed in some cases, for the destruction of furniture—mahogany furniture. But did any man ever hear of furnished barracks, of soldiers' barracks being furnished with mahogany! Mr. M. considered, upon the whole, that the inevitable effect of the bill would be to place the Third Auditor in a most embarrassing situation.

The general subject of the bill, he said, had already been very fully considered. A protracted discussion was had upon it, in this House, seven years ago, and the bill, at that time, failed, not because it was a Buffalo bill, but because it included the losses on the Chesapeake also. Much as the people of Niagara might have suffered, the people on the waters of the Chesapeake had suffered too. Night after night were its waters illumined by the fires which were consuming the dwellings of the inhabitants on its shores. Gentlemen had had their estates wasted, their houses pillaged, their papers, notes, and deeds, thrown into the streets, or torn to atoms, &c. &c. These things must be fresh in the recollection of very many gentlemen who heard him. Could the friends of the bill, Mr. M. asked, conceive it possible that the members of this House were led to oppose it from any want of sympathy for the sufferers; from any apathy or insensibility to the sacrifices and distresses to which they had been exposed! Sir, said he, let these sufferers present their claims to us, individually, in our private capacities, and see who will be most disposed to grant them relief. Sir, put the question into any form of an appeal to feeling, and to the principles of humanity, apart from considerations of policy or rules of law, and we are prepared to enter into competition with the warmest friends of the bill. But the principle of the bill was such, and the consequences to which it would lead were so extensive, that no Government could afford to act upon its principle. Once adopt it, and you must indemnify for all the losses occasioned by a war, not only such as are immediate, but such as are consequential. You must pay not only for houses, but for harvests; not only for grain burnt, but for that which was prevented from being sown. If you thus make an insurance office of the Treasury, you will not be long in discovering that you cannot pay the amount of the policy. There was no parallel to this act to be found in the laws of any country. Neither is there any country which has so much interest in opposing the principle of this bill as this country. If you once set out on the

principle that you will pay for all losses resulting from acts of an enemy, whether lawful or not, in all future wars, you may calculate on having your whole coast laid waste, because the enemy will know that, whatever losses he occasions must eventually be paid out of your Treasury. Such is the principle now to be sanctioned. If gentlemen think this is either just or expedient, let them vote for the bill. I, said Mr. M. certainly shall not. Yet I am willing to vote for ample indemnity in all cases where the destruction can be shown to have been caused by the military occupation of the property.

Mr. JOHN S. BARROUR, of Virginia, then rose and said that he was warned by the impatience of the House for the question, that, in assigning the reasons for his vote on the present occasion, he must be very brief. If he could conceive that this bill would be attended by such consequences as the gentleman last up, and other opponents of the bill, seemed to apprehend, he should certainly be the last to vote in its favor. If he thought it would infuse into the code of belligerent law any new or mischievous principle, he certainly could never advocate it. But, if gentlemen would examine the Constitution, in its fifth amendment, they would find, that, while it recognized the right on the part of Government to take private property for the public use, it also imposed on Government the correlative duty of making just compensation for it. In the case presented by the claimants in the present instance, private property had been taken for the public use, and whilst in possession of the public, it had been destroyed. Between private individuals, the law would, in a parallel case, compel indemnification. And the Government, not being liable to be sued, is therefore only under the stronger obligation to grant the same. Gentlemen had said that this bill went further than the act of 1816, because it does not require the claimant to prove that his building was destroyed *in consequence* of its occupation by the United States. But, said Mr. B. is not such a requisition the holding out of a promise only to disappoint him who confides in it? Sir, it is impracticable to dive into the breast of the enemy, to take the gauge and measure of wickedness, and ascertain the precise dimensions of what has well been called his gratuitous cruelty. The case is a very plain one. Has not this property been taken by the strong arm of Government for public use, and has it not been destroyed? If so, there is no more to be said—we must pay for it.

There existed no danger from fraud, under this bill. The amount being limited, each claimant is a guard upon his neighbor. You have planted all around your appropriation, said Mr. B. the sentinels of self-interest. The whole body of claimants are all interested, not in magnifying and multiplying the claims of each other, but in sifting and reducing them. I believe that the evils which have been presented to us in such lively colors have their place and their existence only in the imagination of the opponents of the bill, and I shall therefore vote for it with the utmost cordiality.

Mr. LINCOLN, of Maine, then rose and said, that only one gentleman who had engaged in debate, had presented his (Mr. L's) views in respect to the present bill, and he should beg leave to add a few words in extension and confirmation of what that gentleman had observed. Mr. L. admitted the force of some of the exceptions taken to this bill, and if the arguments drawn from those exceptions stood alone, he did not know how he could get rid of them. But there was another and a higher principle bearing on the present case, which, in his opinion, superseded those which had been urged with so much ability by the gentleman from Virginia, (Mr. MERCER,) and on which he seemed so confidently to rely. It is this: that, if the Government take the property of the citizen *unlawfully*, and that property is lost or injured, the Government is bound to pay for it. Proceeding to exhibit his view of this case, Mr. L. said it



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was true, that it was impossible for common men to know, at all times and with certainty, what are the designs of politicians, yet he must take it for granted, as a truth generally known, that this Government wished, during the late war, to conquer the Canadas. They did indeed, make their first movement at the remotest point possible. But no sooner was the failure of General Hull known, than it was perceived, on all hands, that the Niagara frontier was likely for a long time to be the theatre of war. Our Government knowing this, ought to have provided barracks for the shelter of the troops. The country along the Niagara was peculiarly important, because it contained two forts; the one at the head, the other at the foot of the River. Gen. Brock saw clearly its importance, and was ready, when the battle of Queenstown took place, to have commenced important operations against it. Yet the Government did not provide quarters for its troops. It suffered its army for a whole year to occupy the private houses of the citizens. Nor did it do this for one year only. During the whole of another campaign, the same state of things was suffered to continue. The troops were in fact quartered upon the people, and that without any law, in direct violation of the constitution. Now, sir, said Mr. L. I can conceive of no greater evil, than the presence of a licentious soldiery, at the fire-side of your citizens. I can conceive of no greater sacrifice to patriotism than the patient endurance of such an evil. The Constitution forbids it to be done, unless by due course of law. There was no law, and yet it was done. It has been said, that it was done by the consent of the inhabitants. The consent of the inhabitants! To what? Did you ever ask their leave to send your armies and quarter them at their firesides, year after year? And did they ever give you their consent to this? Did you ever wait for their consent? No. You sent your armies there. The people saw them perishing for want of a shelter. It was a question of humanity whether they would see them perish, or take them into their doors. But it was also a question of fear, whether they should refuse, at the risk of having their houses blown about their ears. The assent was given, to be sure—but it was in all respects a forced consent. And what did the Government do at last? It must be recollected that the banks of the Niagara river constitute, in almost their whole extent, a natural fortification. There are but a few places where the nature of the ground, and of the current, will permit boats and munitions of war to cross the stream; and these few spots resemble the defiles in otherwise inaccessible mountains; for the banks are in some places of perpendicular rock, and in others, they overhang their base. Yet, what did the Government do to secure these passes? Nothing—literally nothing. After having, by an act in itself unconstitutional, (the occupation of their houses,) exposed the inhabitants to the ravages of the enemy, they did nothing for their defence; and, in the end, they were invaded, overthrown, laid waste, robbed, ruined! Many of them have been since suffering the *peine forte et dure* of endless debt. Sir, may any other portion of this country that was in condition to resist, have submitted to this? No. But these people were feeble and helpless. They submitted, because they could do nothing but submit.

There was another principle, Mr. L. observed, which would require to be noticed. The bill asks only for remuneration for losses sustained under such circumstances. But then we are told that if we pass it we shall subvert the laws of nations. Sir, I have no apprehensions on this subject. This is a question, not between this nation and another—but between this Government and its own citizens. As to foreign nations, our security is not in the code of Vattel, but in showing ourselves strong to resist aggressions. In this case, we ought not to construe the rules of national law with too much strictness. The best rule to be followed is, the best feelings of the heart,

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unless, by following them, we endanger some principles vitally connected with our national existence.

The question was then taken by Yeas and Nays, as follows:

YEAS.—Messrs. Adams, Alexander, of Tenn. Allen, of Tenn. Allison, Bailey, Baylies, J. S. Barbour, Bartlett, Bartley, Beecher, Bradley, Breck, Brent, Burleigh, Cady, Call, Cambreleng, Campbell, of Ohio, Cassidy, Clark, Collins, Cook, Craig, Crowninshield, Culpeper, Cushman, Day, Dwinell, Dwight, Farrelly, Findlay, Foote, of N. Y. Forward, Frost, Fuller, Gazlay, Gurley, Hamilton, Harris, Harvey, Hayden, Hemphill, Henry, Herkimer, Hogeboom, Holcombe, Houston, Isaacs, Jenkins, Jennings, Johnson, of Vir. J. T. Johnson, Kent, Kidder, Kremer, Lawrence, Lee, Lincoln, Litchfield, Livingston, Locke, McArthur, McKean, McKee, McLane, of Del. McLean, of Ohio, Mallary, Martindale, Marvin, Miller, Mitchell, of Md. Moore, of Ken. Moore, of Ala. Morgan, Neale, Newton, Olin, Owen, Patterson, of Ohio, Plumer, of N. H. Plumer, of Penn. Reynolds, Richards, Rose, Ross, Saunders, Scott, Sharpe, Sibley, Sloane, Sterling, A. Stevenson, J. Stephenson, Stewart, Storrs, Taliaferro, Taylor, Ten Eyck, Test, Thompson, of Penn. Thompson, of Ken. Tomlinson, Tracy, Trimble, Tucker, of Va. Tyson, Udree, Vance, of Ohio, Van Rensselaer, Vinton, Wayne, Webster, Whipple, Whittlesey, White, Williams, of N. Y. James Wilson, Henry Wilson, Wilson, of Ohio, Wolfe, Wood, Woods—123.

NAYS.—Messrs. Abbot, Alexander, of Va. Allen, of Mass. Archer, Barber, of Ct. P. P. Barbour, Bassett, Blair, Buchanan, Buck, Buckner, Campbell, of S. C. Carter, Cary, Condict, Conner, Crafts, Cuthbert, Durfee, Eddy, Edwards, of N. C. Floyd, Foot, of Ct. Forsyth, Garrison, Gatlin, Gist, Govan, Hobart, Hooks, F. Johnson, Lathrop, Leftwich, Letcher, Little, Long, Longfellow, McCoy, McDuffie, McKim, Mangum, Matlack, Matson, Mercer, Metcalf, Mitchell, of Pa. O'Brien, Outlaw, Patterson, of Pa. Poinsett, Randolph, Rankin, Sandford, Arthur Smith, William Smith, Spaight, Standefer, Stoddard, Swan, Tattall, Thompson, of Ga. Tucker, of S. C. Vance, of N. C. Whitman, Wickliffe, Williams, of Va. Williams, of N. C. Wilson, of S. C. Wright—69.

So the bill was PASSED and sent to the Senate for concurrence.

#### CHESAPEAKE AND DELAWARE CANAL.

The engrossed bill to authorize a subscription to the Stock of the Chesapeake and Delaware Canal was read a third time; and, on the question "Shall the bill pass?"

Mr. McDUFFIE rose, to explain the grounds on which he should give a different vote on the passage of the bill from that which he had given on ordering it to a third reading. He was opposed, he said, to the commencing, at this time, detached parts of a system of Internal Improvement, for reasons he had heretofore stated to the House. The case embraced by this bill, however, appeared to him to be an exception. It proposed not to give money, but to subscribe for stock, the value of which will be, probably, equal to the amount of money subscribed. The work, moreover, was one of vast importance, and the country in which it was located was not competent to defray the expense. This canal was, besides, unquestionably one of those works which, on a general system, ought to be done by the General Government, and not left to the local government, being national in its character. By subscribing to it now, we may have the prospect of getting back the whole amount we shall advance, &c. Another reason was, that, without waiting for a general system, the House had just passed a bill for the commencement of one work of Internal Improvement, not standing on as strong grounds as this—the passage of which weakened the objection to this measure. And here he took occasion to observe, that he felt so much gratification at observ-

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ing the growing strength of the cause in this House, and the acknowledged conversion to it of several individuals, as to compensate for the regret he might otherwise have felt at not having succeeded in the opposition, which, upon other grounds, he had felt it to be his duty to make to the bill for the continuation of the Cumberland road.

Mr. HAMILTON, of South Carolina, then expressing a wish to address the House on this bill, the House consented to a motion for an adjournment, and, without taking the question on this bill,

The House adjourned.

## IN SENATE—THURSDAY, JANUARY 20, 1825.

Mr. LLOYD of Mass. stated that the Senators of Massachusetts had received certain resolves of the Legislature of Massachusetts, now in session, in reference to the claim of that Commonwealth, for the services of the militia of that state, during the late war; praying the speedy adjustment and payment of that claim. And instructing the Senators of the United States from that state, to present the said resolutions to the Senate. In pursuance of which instruction, he asked leave, in behalf of the said Senators, to present the resolves accordingly; observing, that, as the subject to which they relate is now before the House of Representatives, after having undergone the investigation of an able committee, and would, he trusted, shortly come before the Senate in an acceptable shape, in the form of a bill for the payment thereof, he would propose, that the resolves should be received, read, and, for the present, lie on the table.

The following resolve was then handed to the Chair, read, and laid on the table, viz:

*Commonwealth of Massachusetts.*

*Resolved,* That the Senators of this Commonwealth, in Congress, be instructed, and the Representatives requested, to urge, at their present session, the adjustment of the claim of Massachusetts on the Government of the United States, for disbursements necessary in the Commonwealth's defence, during the late war; and that the admission of its justice and validity, so far as it has been expressed by the authorities of the National Government, is duly appreciated.

Attested by the President of the Senate of Massachusetts, the Speaker of the House, and the Governor of the state.

Mr. HOLMES, of Maine, and Mr. CHANDLER, respectively presented similar resolutions of the Legislature of the state of Maine, which were also read, and ordered to lie on the table.

## SUPPRESSION OF PIRACY.

The Senate then, according to the order of the day, proceeded to the consideration of the bill, reported by the Committee of Foreign Relations, for the suppression of piracy. The bill having been read through—

Mr. BARBOUR, (Chairman of the Committee on Foreign Relations) commenced his remarks by saying, that the Senate were aware that this bill was reported by the Committee on Foreign Relations under the express instructions of the Senate—they were directed to take into their consideration so much of the President's message, and the petitions of a most numerous and respectable class of our citizens, as related to this subject. The Senate furthermore urged the committee to report without delay. They would have preferred postponing their report till they received a message from the President, disclosing the views of the Executive, in relation to the means proper to be employed to arrest the progress of the enormous mischief. But, from the nature of the case, they were so impressed with its urgency, and the necessity of a speedy report, that they resolved

to present their own views of the subject, not doubting that they might rely on the wisdom of the Senate to rectify any thing that might be wrong; and the committee were happy to find that, on the reception of the President's message, he recommended at least measures as energetic as those proposed by the Committee on Foreign Relations.

In the discussion of this subject, I do not know the precise course that ought to be pursued; for, whilst I hear on one hand, in conversation, that the measures we have adopted are too strong, on the other I am told that we have not proceeded far enough. I presume to hope, on this occasion, the truth lies between the two, and that, on the whole, the committee have been fortunate in the means they have suggested to put an end to the atrocious practice of piracy. Fortunately, or perhaps I should say unfortunately, for the facts disclosed are of the most melancholy description, there is no room to doubt the statements that have been made. Our commerce has too long been spoliated by these brigands of the West Indies, and our citizens have suffered every species of outrage from them, not only in the destruction of their property, but they have been cruelly tortured and most barbarously murdered. It is equally true that the means which have been hitherto resorted to have been insufficient to put a stop to it. And I believe it is equally true that the continuance of the evil is to be ascribed to the fact, that these bandits find an asylum in the Spanish possessions in the West Indies. It is equally true, that the information we received from our commanding officer in that quarter, stating that piracy was at an end, and a piratical sail was no longer to be seen, is incorrect. It has gone on, gaining strength from time—its horrors have increased, instead of being diminished, and the numbers of these enemies of the human race have been swelled by the most profligate wretches—the refuse of all nations. The nautical means employed are not sufficient to effect the desired end; and nothing short of the pursuit of these villains on shore, promises any thing like an adequate remedy. The pirates are not only to be found at sea, but the whole island of Cuba is infected with this moral leprosy, from head to foot—all have participated in the spoil thus villainously acquired, nor will it cease till the United States adopt some strong measures to make them feel the consequences of the measures which they have not only tolerated but assisted in.

These are the facts of the case, and the inference drawn from them; and I presume there can be no difference of opinion on the subject in the Senate, that it is necessary that something should be done, and that it should be done speedily and efficaciously. The only difference that can possibly exist may be, as to the means which ought to be employed; for, surely, there can be no doubts as to the expediency of stretching out the arm of the nation, with all its resources, if necessary, to but an end to piracy. The committee did not portray, in the dark colors of which the subject is susceptible, the outrages and atrocities committed by these brigands. They did not exhibit the American citizen suspended from his own yard-arm, or weltering in his blood on his own deck, invoking in vain the aid of that flag, as well the pledge of your protection as the emblem of your sovereignty. They did not do so, because they thought that the naked facts, with the atrocious circumstances connected with them, would be sufficient to excite the indignation and horror of every citizen. They, therefore, left the subject to the general conception of every member of this body, without wishing to bring out the whole of the dark disclosure. On this account, some may be induced to believe that, in the means we have recommended, we have proceeded too far, but in my estimation, we have not, nor do I believe we could have gone too far. These people, by a singular combination, unite two of the most atrocious crimes that infest socie-

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ty, the slave trade and piracy; and Sodom and Gomorrah can no longer claim the infamous pre-eminence in crime.

There are others who think we have not gone far enough, but if they had said we ought to have recommended extermination, I should not have thought it too strong. They are the common enemies of the human race. The whole island is participating in the most atrocious crimes that can be perpetrated by man, and against these, as enemies of the human race, extermination might with propriety be denounced. The committee had no desire to inflame the passions, nor have I, and I am confident that no labored coloring is necessary to make every member of this body feel as powerfully on this subject as I do.

Sir, I will now proceed to take up the bill, section by section, to satisfy the Senate as to the propriety of adopting the means proposed.

The first section proposes building a number of ships, not exceeding ten, of a particular force. In relation to this clause, I wish to remark, that it is the copy of a bill that passed last session for building these ships. It was a measure strongly recommended by the intelligent Head of the Navy Department. These vessels were to answer two purposes; they were not only calculated for suppressing the existing evil, but they would be an addition to the navy, to be used whenever a force of this description could be of service, and as a means of keeping down this tremendous evil when it was once down. It was then argued that it was more prudent to buy than build, that the most intelligent were of a contrary opinion, and experience warranted it. It is unnecessary to travel further on this ground, since nothing has since occurred to occasion a change of opinion on this subject, but, on the contrary, the duration and the increase of the evil has tended to confirm it. The House of Representatives had not time to consider it. It was passed over with many hundred other subjects, but there was never any thing unfriendly exhibited, as far as I am advised, to its passage.

The second section provides for the landing of our forces in fresh pursuit of pirates, in the territory.

I believe, as far as regards our right to adopt this measure, there is no question that it will be yielded, on all hands, that it is lawful to enter the territory of any power in which pirates have taken refuge. Where a neutral power permits the enemy of an established Government to enter its territory, it instantly creates a right, on the part of the opposing power, to pursue, because, in giving them refuge, they abandon their neutrality. Much more so, is the right unquestionable as regards pirates. They are the common enemies of the human race, towards whom there can be no neutrals; therefore, it is perfectly lawful to pursue them into any territory into which they may have taken refuge, and any nation who should assert that their rights had been violated by such a pursuit, would make themselves parties in their crimes, and become obnoxious to all civilized Governments, for the refuge afforded to the enemies of mankind.

If there be any doubt, however, on any man's mind, I will avail myself of the opinion of one of the most distinguished jurists of this country, and when such authority is to be had, I prefer it to all other. This gentleman was at the head of the Navy Department when instructions were given to Commodore Porter, when he proceeded on his first cruise on that station, and who now occupies, with so much credit to himself and usefulness to his country, a seat on the supreme bench. After sanctioning the principle above advanced, as to entering the territory of neutrals by belligerents, he proceeds to state that, in the case of pirates, there is no neutral party; they being enemies of the human race, all nations are parties against them, and therefore the right of entry, into any and all territories, in pursuit of pirates, is a clear

principle of international law. In addition to this, you have the message of the President of the United States, stating, that this course is necessary to reach the evil, so that there can be no doubt as to the expediency of the measure.

I cannot too often endeavor to impress on the minds of the Senate, that these brigands are not only formidable by sea, but they find abettors by land. Let humanity blush on the declaration of the fact; they find countenance not only amongst the refuse of the population of Cuba, but amongst the merchants, the planters, and, what is more humiliating, amongst the constituted authorities of the Island. Every place throughout the Island, we are credibly informed, is contaminated by his deadly sin. Sir, the idea of a constituted or local authority, lending his aid to obtain redress for the aggrieved, is idle. The testimony of Randall, which I think is unquestionable, is sufficient proof that the local authorities, instead of putting down this evil, receive their share of the wages of iniquity. We are told these brigands rarely venture out in large vessels, but hover round the shores and the country, which, from the number of creeks and inlets, is peculiarly adapted to the objects of these marauders; and, when they are pursued by the American squadron, they find refuge on shore; and, where is there a shadow of evidence to prove that they have been taken up and punished for their crimes, and for the sufferings they have caused? There is none. You must cause vengeance to reach them—you must teach them there is justice still on the earth; and, although their own Government connives at their iniquity, there is another country strong enough to seize them in their recesses, and drag them to condign punishment. If we travel further into the case, we shall see the depth of depravity to which human nature can be reduced. These wretches, instead of being detested, are publicly justified. Yes, sir, it is pronounced an honorable trade; and what are we to expect from beings who justify such deeds as these? There is another circumstance which is very strong indeed; even General Vives himself, whom we exempt from participation in these deeds of iniquity, is still afraid to execute the authority with which he is invested. These brigands are seen in the public streets, mixing with the most respectable people of the place—and why not? They are all engaged in the same abominable traffic; and although those who have been so fortunate as to escape the murderer's poniard, have been able to point out in the public streets, a man, saying, "there is one of those who robbed me and murdered my companions," he is told to beware lest the poniard still reeking with the blood of a brother, shall shed his own.

Sir, I have heard it stated that the territorial rights of Spain would be violated, were we to adopt the measure recommended in this section. That it is a terrible thing to violate the rights of a nation and draw on war, and all its calamities. But Spain has obligations to perform as well as rights to assert. If Spain had acquitted herself of the obligations imposed on her by the laws of God and Man, and brought to punishment those monsters who find refuge in her territory, and to which she has been so often urged by our Government in vain, I would admit, that any attempt to enter her territory, as it would be without necessity, so, also, it would be without right, and unjust. But, under existing circumstances, what can Spain do? The committee find that Spain is unable to fulfil her social duties, and they put this charitable construction on her neglect of them. If she is able to put a stop to those outrages, and yet still permits them, she makes herself a party in the crime, and no measures that the United States could adopt would be too strong. We must act on one of these facts—connivance or inability. To act on the latter, is for the benefit of Spain. And what can Spain complain

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of? The United States has thrown herself on her own resources to do that which Spain ought to do, but finds herself unable. Sir, let us bring this case to private life. Suppose the habitation of an individual to be intruded on by a ruffian, and he is without strength, and unable to resist him. A neighbor who had been annoyed by this same ruffian, seizes him and turns him out; can the weak man complain? The same principle applies here. It is a misfortune, but not a crime, in a nation, that it is incapable of doing itself justice. Spain cannot acquit itself of its obligation in driving out these bandits. They carry on war with all mankind, and all mankind ought to arise to relieve a neighbor that is unable to assist itself.

But, sir, I beg to observe that this clause is limited to a fresh pursuit. When these wild beasts are started from their lairs by the American squadron, and wish to conceal themselves, then making fresh pursuit, authority is given to the officers to pursue them, capture them, and bring them back, or leave them in the island, if assurance is given that they shall be brought to condign punishment. I am now alluding to the caution with which this power is given. It is not a general privilege to enter the country in pursuit of pirates, because the ultimate consequences of that might be mischievous. But, if, in a fresh pursuit, it is necessary to apprehend them, then the authority is granted them. With this caution, no difficulty will be created; and, considering the exigency and extraordinary nature of the case, and the outrages committed, there cannot be any difference of opinion in the Senate as to this clause of the bill. Surely, those do not argue well, who say that a measure should not be adopted, because it may ultimately produce mischief. This objection lies against any and every measure. If power is pushed too far, there is authority sufficient in this country to punish those who should be guilty of a wanton abuse of power.

The third clause is that authorizing blockade, under particular circumstances.

This clause has been particularly objected to, more especially on the ground of right.

Sir, the committee, in their consideration have assumed the ground that we have had ample cause for war against Spain, according to the law of nations. It is expressly laid down, that, if a nation refuses to repair an injury committed by its subjects or citizens, it becomes instantly obnoxious to the aggrieved party, and affords just ground for retaliation. On this principle, Spain stands obnoxious to the United States for every outrage committed on its citizens by her subjects. The injuries have been inflicted, and redress demanded in vain. If, then, this is true, unquestionably we have sufficient ground for war with Spain. A just occasion to declare war leaves to the injured party a right to modify, according to his pleasure, the application of his force so as to effect his end. Hence, there are various steps, having reparation for their object, short of war—steps dictated by reason and humanity, and which not unfrequently produce the desired result, without the calamities of war, such as an embargo, letters of marque and reprisal, and, I will add, a blockade: for I can see no reason applicable to the former, that will not apply with equal force to the latter. If either of these measures succeed, the cause of humanity is promoted. The argument that nothing shall be done which is not justified by precedent, is at war with the condition of human kind, the current of whose affairs is one continued vicissitude, every age presenting its own incidents. From whence have you derived the precedents forming the law of nations. They had their origin in the right common to us. They rest on the maxim equally inculcated by jurists and by reason, that right goes hand in hand with the necessity and the exigency of the case. In self-preservation, you have a right to resort to such measures as necessity dictates. On this principle our ancestors acted. Their actions became precedents,

and precedents authority. And, give me leave to inquire, At what epoch was posterity disfranchised? At what point of time did they forfeit the privilege of employing means corresponding with a new and necessary occasion? Selden, the English Patriot, was asked, by what authority he justified opposition to tyranny? He replied, he was not aware that there was any statute upon the subject, but it was a usage in England. When our fathers, animated by the love of independence and of liberty, rose, in their might to break their colonial bondage, and to establish our free and happy institutions, had some admirer of precedent inquired on what ground they justified their measures, appealing from musty records and established precedents, they would have pointed to the original source of all human authority—the law of Nature, and which, when unpoluted, guarantees the self-preservation and happiness of man.

He, therefore, who refuses to proceed, if there be not a precedent on the files, separates himself from the mighty and resistless current of human affairs, and becomes partially barbarous. Reason and necessity compel us to yield to its endless changes. Although, therefore, no authority could be appealed to to justify this measure, yet, if it be obviously necessary, to save our property from destruction, our citizens from massacre, and to bring to condign punishment the most atrocious of mankind, enemies of the human race, that necessity would be a sufficient justification.

Returning again to private life: suppose a case between two individuals. It is unique. Would the tribunal say, there is no precedent, therefore your case shall not be provided for? No. It refers to the source of the eternal principles of justice, tries the case by that, decides, and the principle becomes a precedent. Therefore, in reference to nations, if there is no authority, no precedent, no analogy—if it is a new case in the course of human affairs, let it be adjudged by the same rule. You must attend to the current as it flows, adapt the means to the end, and you are satisfied. Mankind is in a continual course of revolution. It is in vain to talk of fixing him by establishing precedents. New means must be adopted, and those means must correspond to the end. Right goes hand and hand with the exigency and necessity of the case, and if your means are well directed and sustained by justice, you have nothing to apprehend. But, are we without precedent on this subject? I admit I have not examined the jurists on this subject with much attention—but we have one modern one which not only covers the ground the committee recommend, but goes further, because it is much stronger. This case is the blockade of Cadiz, on the part of France. They did not pretend to be at war with Spain, but avowed distinctly they were not, but, according to the morality of the French school, this city was in possession of the insurgents, enemies to social order, and what course do they pursue? They blockade the city. None are allowed to approach. But, to give peculiar emphasis to this precedent, Mr. President, is it not remembered by every one that an armed vessel belonging to the United States, and the messenger of peace from one power to another, was denied admittance? England experienced similar treatment. I do not perfectly recollect the whole of the circumstances, but I believe there was but one exception. Yet, I have never heard of any complaint having been made, either by America or England, or any other European power. The vilest slave that is prostrate at the foot of majesty, who enforced so strong a measure as proclaiming a blockade so severe as even to exclude the messenger of peace, could not, on any principle, deny our right to blockade a place in which these robbers have taken refuge, and the inhabitants of which place are in league with them. Therefore, I conclude, that, on every principle we are justified in exercising this power.

Permit me to ask, from whom can any complaint arise?

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That is a question well worth inquiring into, for it is prudent to look to the consequences. Can Spain complain? No. Because the arguments that apply to invasion of a territory, apply with equal force to a blockade. Spain! you cannot do us justice. Murderers and robbers take shelter in your territory, and your landmen, instead of delivering them up to punishment, assist them in the perpetration of their crimes, and share the spoil. We make a fresh pursuit; your people have done all they can to shelter them, and refuse to give them up—therefore, we point the finger of wrath against the offending spot.

Make it their interest, which is the only hold you have upon them, make them feel it is their interest to acquit themselves of their obligations, and give up those men who take refuge amongst them. Let us bring the case once more to private life. I have no right to shut the door of my neighbor, if he is acquitting himself of his obligations to me; but if I know from unquestionable evidence, that his house is the asylum of murderers and robbers, one of whom has robbed my brother, if I shut his door to prevent their escape, could that individual complain that I had done him an injury?

This is the language that would take place between Spain and other nations, were she to lose sight of the little self-respect she enjoys, (and I know of no nation that enjoys less,) as to complain of a measure of this kind. She would then be implicated with these assassins. From whom, then, is there any danger? From France? France would be too modest to complain of our blockading any of the Spanish ports, Matanzas, for instance, after having assumed the right of blockading Cadiz. Can England or any other power complain? These men are enemies of all mankind, therefore, every nation is against them. There is not a Government on earth, however degraded it may be, but would blush with shame on claiming the privilege of violating this blockade. Peculiar circumstances might render it necessary to exterminate them as the enemies of mankind.

This privilege of blockading, although called for by the circumstances of the case, and strongly recommended by an intelligent agent there, as necessary for the purpose of effecting a kind of moral revolution in the Island, this system is no longer to be pursued than is necessary. The committee, in granting this power, approached the subject with the greatest attention and caution. We do not give a general privilege to the officers, or even to the President, to exert this power. They say, before this power is exercised, you shall have traced these brigands to a particular spot—you have been prevented overtaking them in a fresh pursuit. The guilt is thus thrown on the city. And, after all, this power is not to be executed till a reference has been made to the President of the United States, and it is for him to say whether or not, under all the circumstances of the case, this power is to be exercised. If it is not necessary, then the bill has done no harm; but, if, from the course of events, it is necessary to execute vengeance on these infamous people, then this power is in the hands of your Chief Magistrate to provide for the exigency of the occasion. Is it objected, that this is trusting too much to the President? That power is exercised only by the will of the nation, acting directly on the subject; it does not say this power shall be instantly exercised; but, if, from the exigency of the case, a necessity is created of exercising it, then the President shall have the power of exercising your will. There is no transfer of power: we in our sovereign capacity, point out the instrument by which our will shall be carried into effect.

It is recommended, by an intelligent agent, to blockade the whole Island, and make reprisals by land and water. Nothing short of this will be effectual. We have not proceeded so far—we are disposed to feel our

way—but, if this evil be not stopped, we may have to resort to extremities. If there are further proofs of plunder and bloodshed, they may conceive it necessary to employ the phial of wrath, even to extermination.

I beg leave to call the attention of the Senate to the fact that this measure applies only to the guilty—vengeance points to the particular spot. And the innocent are not included. Wherever shelter is given, there the inhabitants become parties to the crime. Surely all will rejoice in the success of this measure, which is the welfare of mankind.

The whole people have given themselves up to murder and rapine—the whole people! and they have found their account in so doing, by prevailing on the most atrocious to join their bands. You are told that nothing will reach this evil but the conviction on their minds that it is their interest to put a stop to such lawless proceedings. Nothing will produce that conviction but force; and that force must be brought to bear on the offending cities. When their trade is cut off, and they lose the fruits of their rapacity, the inhabitants themselves become interested in putting a stop to it. When you have the guarantee of their interest, there is no question of ultimate success. The only security you have is their interest, and you make it their interest by cutting them off from all intercourse with mankind. It is not necessary to urge this point any further. I think that we are justified in exercising this power both by reason and analogy. If that is maintained, the expediency will certainly be acknowledged.

Sir, I think the strength of our measures may be ascribed to the imbecility of Spain. That weakness has produced the necessity of adopting the powerful measures in question. But, if it is said that they have been adopted with the intention of taking advantage of the weakness of Spain, I answer, blessed be God, the United States have nothing to wish, and nothing to fear: we are prepared to rejoice with our fortunate neighbors: and, if they are unfortunate, to pity them. Surely if, in the tide of time, any nation ever existed, calling for the compassion of mankind, that nation is Spain. O! how she is degraded—how she is sunk—a foreign bayonet supports a tottering throne, whilst her imbecile monarch is watching, with a jealous eye, the progress of every thing that is patriotic or worthy. His counsels, in his own native country, have been more disastrous than the march of a desolating conqueror. His decrees are dictated by fear, cruelty, and despotism, and written in blood—at their approach, whatever is worthy, retires, as from the hand of death—in their van, amazement and flight; but behind, sorrow and solitude. In fine, the annals of Spain are like the Prophet's scroll, which was written within and without, and there was written lamentation, and mourning, and woe. Were it possible for America to desert her high career, to add an additional drug to the cup which Spain has been doomed to drink, we might well fear that we should provoke the vengeance of that God whose kind Providence has enabled us to march, with a giant's stride, to the fulfilment of our happy destinies, and whose favor is to be conciliated only by deeds of moderation and justice.

These robbers are more ferocious than the Algerine corsairs; they spare neither age nor sex, but all fall beneath their murderous hands. Out of twelve vessels, not one was suffered to survive! Can the records of any age produce any thing more monstrous or barbarous than this? These are the powerful motives which have induced us to recommend the adoption of such decisive measures: it is to save our property from plunder, our citizens from being murdered, and our flag from being insulted, and that it may become an inviolable safeguard over whatever subject or whatever sea it may wave.

The 4th section is to effect limited reprisals on offending vessels.

It is one of the principles of our bill that the guilty



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alone will be punished. Referring to the message of the President, and to the information of our agent, it will be found, that this reprisal was one of the means recommended to produce a moral revolution among the people of the Spanish West Indies. In this instance, the offending vessel only is visited with punishment.

The 5th section requires no comment.

The 6th section is a matter of some degree of importance, as it relates to the privilege of permitting private vessels to arm in their own defence. It matters not what is the extent of the navy employed; it matters not what success attends fresh pursuit; it matters not what effect attends the blockade; when every vessel is armed for its defence, and it is known that none can be taken unawares, they will find that it is an unprofitable business, and thus, the only sensible nerve will be touched, and will go far towards effecting the desired object. I have often appealed to private parties, but I will give a case in point: You have your patrol in the city of Washington; there are midnight robbers lurking about; and it suggests itself to the mind of an individual, that, although an armed force is in the neighborhood, he may be attacked, when they are not near; therefore, he carries with him a brace of pistols, that he may not be entirely dependent for his safety on assistance that may fail. This is the case here. Say to the mariners, arm yourselves, defend yourselves, and exterminate these wretches as far as you are able; and in this light they are aiding the views of Government.

Whilst this section was under consideration, an idea was suggested, which I looked upon with a favorable eye, viz. that those persons who could not afford to arm themselves, had a just claim on the Government, and ought to be furnished with arms and ammunition, and so much for each gun used, as an indemnity for the expenses.

If any gentleman of the Senate wishes to add such a clause, he shall have my cordial support. There is nothing that we possess that I am not prepared to furnish on this occasion, to put an end to these miscreants. It is degrading to the whole of the civilized world, that, in the 19th century, a set of wretches are tolerated in neighboring islands, so near to our shores, that we can almost hear the cry of the suffering victims, and that, so far from being brought to punishment, they are obtaining recruits from the refuse of all mankind.

Look at the particular position of Cuba, and you find it has complete command over all the trade of those parts; not a vessel can pass but is in danger of being plundered and destroyed, for you find they become more ferocious from habit; formerly they spared the crew, but now we find, from evidence adduced, that they are all immolated.

In reference to this section, there is no objection as far as we have gone; but merchantmen may arm and become a part of the means resorted to for the extermination of piracy.

The other sections are not important, nor do they require discussion, because there is no difference of opinion on them.

In forming a fund for the wounded, and widows, and orphans, of the slain, no appropriation is asked for; the fund is to arise from the capture of the piratical vessels; they are made belligerent, and become entitled to it. The last section directs that all the operative part of this bill shall cease at the termination of the next session of Congress; so that you will have the object again in your possession. If any mischief has been produced by it, you can prevent it for the future—if any good, then you can either continue it, or make additions to it. The Senate will do us the justice to believe that we were animated with the most ardent desire to do every thing that could be done, in the best possible manner. It is a question of the deepest interest, and in which the large mercantile cities of the Union are particularly interested.

Mr. SMITH, of Maryland, thought this subject was

one of the greatest importance, and one that ought to be treated with the greatest attention. The bill had been drawn up with very great attention by the committee, but he thought it might be amended in such a manner as to make it more effective. Some aid ought to be afforded to the merchants; but the power to arm, he said, was not wanted; that power existed already by the laws of the nation. An act was passed in 1819, which was continued to 1823, and afterwards made permanent, authorizing arming against pirates, though the wording of the present bill was much better than the existing law on this subject. But, although merchants had the power to arm, yet most of them had not the means; for the trade was not profitable, barely paying freight. Therefore, it would be aiding the Navy of the United States in affording them the means of arming. The most certain course for putting down piracy, Mr. S. said, would be that, on every attack made by a piratical vessel, they might meet with resistance, till, in the end, finding it unprofitable, they would seek some more honorable mode of subsistence. He had prepared a section with a view to this subject.

If any blockade took place, of the propriety of which he had his doubts, he thought the wording of the bill was faulty. A pirate is to be pursued into a port, and then a despatch is to be sent home to ascertain whether the port is to be blockaded or not; and, by the time the answer comes, the pirate has flown, and the blockade is useless.

If the blockade was to be declared, he thought there was a way in which it might be more effectually done, and without giving offence to foreign nations. The present bill would be inefficacious. British or French vessels which were bound to Matanzas, and were turned off, would ask for authority for such an act. It is not to be found in the law of nations. Where then? In the laws of the United States? They will say, those laws don't affect us, and we will go in. What will you do? Fire on them? That might be a very dangerous experiment, and involve us in war.

Mr. S. then proceeded to observe, that he threw out the following proposal for consideration: If, in a fresh pursuit, a boat were chased into Matanzas, why not authorize the American captain to inform the commander of the port, that he has pursued the pirate into port, and, if he refuses to deliver him up, blockade the port so far as to prevent any Spanish vessel going in. Also, send a despatch to Government. This would give no offence to foreign nations, and would be more efficacious than the proposition contained in the bill.

There were a variety of considerations that presented themselves on the subject of blockade, to one or two of which he would call the attention of the Senate. The direct trade to Cuba was very great, although, by the laws of Spain, they were not permitted to trade with her colonies. During the French Revolution, the ports were opened to all the world, but one of the first acts of the king, on his return to his throne, was to order them to be shut again. Three successive orders came, but were never put in execution. Spain will now say, you have done your best to put down piracy; we have likewise done all we could, and there now remains nothing to be done but to cut off all trade with foreign nations. We must shape our course in such a manner as shall justify ourselves to the world, and yet not be injurious to our own interests. The produce of the middle states was worth nothing without the Cuba markets. There was no port to which they could send it, and should they risk the loss of these? The commerce with the Spanish West Indies is the most valuable we possess.

He thought the measure he proposed was warranted by the law of nations, and yet would not give offence to Spain. He did not wish to commit himself, but merely threw out the suggestion for consideration.

The bill was then postponed until to-morrow.

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Chesapeake and Delaware Canal.

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## HOUSE OF REPRESENTATIVES—SAME DAY.

## CHESAPEAKE AND DELAWARE CANAL.

The bill to authorize a subscription to the stock of the Chesapeake and Delaware Canal being on its third reading—

Mr. HAMILTON, in rising, remarked, that, whilst he returned to the House his most respectful thanks for the indulgence which they granted him yesterday, by an adjournment, which enabled him to address them to-day, he felt it due to himself to say, when, on the last evening, he submitted a motion to adjourn, that he had been influenced exclusively by a wish not to intrude, upon a fatigued and exhausted audience, remarks which he knew could have no attractions to arouse it from an apathy consequent on a protracted attention to the business of the morning. He declared, without feeling any strong wish to make proselytes to his views of the subject under consideration, he nevertheless desired, before he recorded his vote, to assign the reasons which induced him to give that vote in the negative, on a proposition which had seemingly so much to recommend it. He was more particularly solicitous for the indulgence of this privilege, because it appeared to the understanding of some gentlemen, that those who voted for the bill, technically called the survey bill, at the last session, were pledged on the great question of internal improvement; and that they could not, without some apparent inconsistency at least, refrain from supporting almost every measure which might have for its object the construction of a canal or road. That, having been thus initiated into the faith, that a ready concurrence in all expenditures which belong to the exercise of power, followed as indispensable and legitimate forms of worship. Now, for one, he had no hesitation in saying that the survey bill could have been voted for even by those who entertained the strongest conviction that no constitutional power resides in this Government to construct works of internal improvement—for the proposition really submitted, on the passage of that bill, was, whether, by maps and charts, we should obtain a statistical and topographical knowledge of that country, whose interests and prosperity are confided to our care? But his opinions he had no hesitation of avowing in relation to this subject, which were most unequivocally—that Congress had the right to construct roads and canals, under the military power, as well as the post roads and post office power given to it by the constitution. If we have not the power to construct either a road or canal, for the transportation of troops or munitions of war, I do not see, said Mr. H. whence we derive our power to build a fort or arsenal; for, in reference to the exigencies of war, they may be both of equivalent necessity: for it is altogether true, in a military view, a canal or a road may, *in effect*, perform the same offices, and tend to the same object, to wit: by a concentration of force on a given point of defence. And, further, the right to make a post road, *if necessary*, is so inevitable an incident of the power "to establish a post road," that it was impossible to distinguish between two things which seemed, in all respects, identical propositions. For, to make a post road may be as necessary, convenient, and profitable, for the transmission of the mail, as it is for the Government to purchase the leather which forms the portmanteau of the mail itself: and yet we have precisely as little expressed, and as much implied, power, for the construction of the one as for the purchase of the other. But, Mr. H. said, he would console the House by a most explicit declaration, that it was not his intention to go into a refined or abstract discussion of this question, on which so much ingenuity had been displayed. He confessed that this species of metaphysical dialectics had few charms for him, because he had no capacity for them—that the taper of common sense burnt with a light

sufficiently steady to guide his humble steps—that a sound, plain, and familiar interpretation of an instrument, intended more for practical good than theoretic refinement and subtlety, suited his purpose. Besides, if he wandered far into these abstractions, he dreaded lest he might plunge into that "Serbian Bog," which lies on that narrow isthmus which connects the extremes of this question, where he would be left, notwithstanding the chivalry of his friends, (from Virginia,) to perish as an abominable and irreclaimable heretic.

Mr. H. said, that whilst these two sources of delegated authority, to which he had referred, furnished the requisite power, he was happy to perceive, by their very nature and character, they also furnished a limitation to the exercise of the power, and confined its application exclusively "to national objects." For nothing which has a just reference to the defence of this Union, or the communication of information, commercial and political, and social intercourse, can be otherwise than "national" in its character and tendency. With this view of the subject, he would support, whenever recommended by justice and expediency, any works of national utility which could be brought under a direct, and immediate, and natural relation to one or the other of these powers, which he believed confided to the General Government. In making this declaration, it would be perceived that he rejected the right to construct works of internal improvement, under the broad power to appropriate money "to promote the general welfare," or "to regulate commerce between the states," the first of which he thought might be made to imply any or every thing which a capricious interpretation was capable of supplying, and that the last was as indefinite and as various as the principle of trade itself, and could be stretched almost to as many objects as there are subjects of barter and commerce.

Mr. H. observed, with these few remarks on the abstract question, he should now proceed, with the utmost brevity, to state why he should vote against the measure for which some gentlemen had indicated such an uncompromising zeal. He was not, for one, disposed to vote for any work, until, by an act of specific legislation, it could be made apparent what was to be the outline of the scheme of internal improvements; that there might be a strong guaranty afforded for the most defenceless portions of this Union, having the smallest representation on this floor, that they should participate in the benefits of a system having for its object the general defence of the whole country. Under the solemn faith of legislation, he wished some certain stipulation that those portions of the country most speedily requiring these improvements, and least able to accomplish them, should claim our first attention. He believed if this pledge, detailing the works in their order of progression, in reference to their relative utility, could not be obtained, that, without waiting for scientific estimates or surveys, four or five large states might confederate and keep the benefit of the system to themselves, under that "solemn plausibility" of the public good, which self interest so freely supplies whenever the pretext is at all necessary. Besides, if the question submitted to the House was, where ought we to begin? he should think the answer ought to be decisive—not, surely, between the Delaware and Chesapeake; because, with the exception of certain portions of our Union, more especially in New England, he thought this section of the country decidedly the strongest and most defensible, from its dense population and already easy communication, and if our resources were to be applied at once, let them be carried to some section now comparatively weak, and most requiring interior communication. It is perhaps worthy of inquiry, whether it is to the interest of the Government to construct roads and canals in those portions of the Union where, in the progress of wealth and population, they will certainly be accomplished; for that works,

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executed by private capital and individual enterprise, will at once be more judiciously executed and more beneficially supervised, does not admit of a question; and to this it is no answer to say, that the U. States, subscribing as a stockholder, has its interest superintended; for, for just so much as may be the capital of the U. States employed in this way, will be so much of the capital of the country unrepresented by the ever-watchful instinct and sympathy of private interest. It is perfectly obvious, that the Chesapeake and Delaware canal is precisely one of those works which *must* and *will* be accomplished without the aid of Government, by the natural progress of wealth and population, and the probable profit which will be afforded to the investment of capital under the guidance of those who can best direct it—its owners.

Mr. H. said he did not think that there was a good husbandry, or application, of the means of Government, to begin precisely at the point where the work could and would be accomplished, without our aid, when so many important sections of our country, infinitely more vulnerable in a military point of view, could not be rendered defensible without it. It is indisputably true, that there were many portions of the Union where, for the construction of roads and canals, the General Government would not be under the necessity of expending a farthing, even in reference to those routes which would be essential in time of war for the transportation of troops and military supplies, because private interest would make them complete and ready at our hands. Now, unless it can be shewn that the resources of the country, for the next fifty years, will be more than adequate for the construction of those works necessary to the security (by internal communication,) of those sections of our common Union, where they can only be executed by our entire aid; it is surely a question worthy of consideration, whether we are not beginning, not only in the wrong place, but doing that which, long before the most unimportant of our distant works can be accomplished, will be a superfluous act of munificence. For, he would undertake to aver, as certain as there was an increase of the wealth and population of Philadelphia and Baltimore, just as certainly would the projected canal be completed without our aid. And he believed this aid could be withheld without the slightest injustice to a single individual in this country: for what it is the interest of communities to do, they will do in the natural progress of events, without the pampering of Government, which often has an unpropitious effect.

Mr. H. said, that in his humble view of the subject, he thought the importance of the proposed Canal, in a military aspect, was greatly overrated. He did not hold so absurd an opinion, as to say that the water communication contemplated would be of no service, at certain exigencies, for the transportation of the heavy munitions of war. But the neck of land over which the Canal is to pass, is too narrow, and is now furrowed by a turnpike road too good, to render the prompt and efficient passage of troops with their light munitions, at all uncertain or embarrassed. He would undertake to say this, that a body of twenty-five thousand men, with the necessary *materiel* for going into action on this side of the Chesapeake, could be marched on the turnpike as expeditiously as they could be transported by water on the canal, if they had to change their boats on their arrival at the Chesapeake. None but those who have witnessed it, can form any idea of the time consumed by the embarkation and debarkation of troops. The great utility of this canal, in a national point of view, would be its adaptation to the passage of vessels of war from the Delaware to the Chesapeake, without the necessity of doubling the Capes, in cases of concerted rendezvous at Hampton Roads. It does not appear, but precisely the reverse, that it is the object of the Company so to construct it at present, and if completed merely for boat or sloop navigation,

it is not very probable it ever will be so adopted, except on terms which would throw the entire burden on the Government, and at a cost which might infinitely transcend the value of the object, as valuable as it might be.

Mr. HAMILTON said, he objected to the subscription of the United States in the stock of the Company, on another ground, which was, that there would not probably be a single turnpike or Canal Company in the United States, which would not make a similar appeal under the benefit of this precedent, or, that would not perhaps have equal claims on your liberality; and, if such applicants did not succeed, it would be the result, he feared, rather of the weakness of the political combination which could be brought to bear on their applications, than on the intrinsic justice of their claims. The state which I have the honor to represent on this floor, is now engaged with an enterprize worthy of herself, and on her own resources, in two Canals, both of which are more essential to the defence of the seacoast of three States in this Union, than any two works could well be imagined. He alluded to the Catawba Canal, which opened a communication with the populous District of North Carolina, at a distance of two hundred and fifty or three hundred miles from the Ocean, and the Saluda Canal, which afforded a similar facility of drawing military resources from Tennessee. Yet, Mr. H. said, he questioned whether, if either himself, or some one of his colleagues, better able to support it than himself, had introduced a proposition that this Government should lend the State of South Carolina three hundred and fifty thousand dollars on a contingent payment of interest when the works *might be profitable*, to accomplish them, it would have obtained any thing more than the cold ceremony of a reference to some Committee where the measure would die a natural death, as a matter of course. Yet, he could demonstrate, in relation to the military exigencies of the country, that these canals were vastly more essential to its defence than the one, for the benefit of which we are called upon to contribute.

If a system, having reference exclusively "to national objects," is reported to this House in the progress of four years, it will not be necessary to appropriate the whole amount of their cost at once, but by a judicious apportionment of our means, beginning with those of the first necessity, we might lay the foundation to some of those works which would form "a tower of strength" to us in war, as well as a memorial of our successful industry in peace, and at once afford an effective guaranty to all the portions of this vast Union, that their national interests would be considered. Now, said Mr. H. in beginning with the Delaware and Chesapeake Canal, we are beginning where, as he had before said, our aid is least wanted, and where the work can and will be accomplished without it. Surely, if we are at once to commence the construction of canals, the communication between the Gulf of Mexico and the St. John's, the communication between the Cape Fear river and the Waccamaw, are points of far greater importance in reference to the exigencies of defence, than the point to which it is proposed you shall apply your means. The one comprises a section of country of sparse population, and extensive seacoast, where munitions of war must, in all probability, be transported on a sudden exigency. The last is a point in the heart of a population full and overflowing, and surrounded by all the materials of defence.

Mr. H. said, that it was in conformity with some of the views that he had stated, that he voted with much reluctance yesterday against the continuance of the Cumberland road, because the road had not yet been surveyed under the act of the last session, in reference to its ultimate extension, however accurately it might have been traced some years since by a distinguished officer of the Government. This post road, in connection with the great southern post route, should unquestionably re-

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ceive his support at a future period, if honored with a seat in this House, because he believed, after it had been clearly ascertained what was the best direction it ought to take westwardly, it would not only add to defence, but greatly facilitate the mail communication of the country. If his support was worth any thing, it would be cheerfully promised for objects of this character; and the vote which he had given for an appropriation to remove the obstructions in the navigation of the Ohio and Mississippi, afforded to his Western friends a token, at least, that his views were not alien to their interests, because, in this particular, their interests were those of the whole nation. The unobstructed navigation of the Mississippi was not only as essential to the defence of its Delta, comprising its rich capital, as fortifications at the Rigolets and English-Turn, but more so; and what was still more important, this navigation could be improved at vastly less cost.

Let not, however, the gentlemen of the West rebuke those of the South, for a narrow spirit, by supposing that we enjoy, in any especial manner, the pecuniary benefits of this Union. I speak from personal observation, and somewhat with personal experience, when I say, that there is no Western State of the same population, in which the Government expenditures are not as great as in South Carolina. This subject was so forcibly discussed by my colleague, yesterday, that I will merely observe, that we have scarcely any evidences of our belonging to the Union, except those furnished by the attachment of our people to the common bond, and the tax-gatherer who is stationed at our custom-house in Charleston. Of the 750,000 dollars you collect there, scarcely forty thousand are detained to quicken and expand the sources of productive industry at home—it all goes into a current which, like that stream that sets northwardly, has no reflux. And this is not all. To the whole amount of this tribute the community of Charleston, in the unavoidable and oppressive coercion of the Bank of the United States, has to bear the additional expense of its remittance, whatever may be the difference of exchange, to those more fortunate regions where the refreshing showers of the national patronage are always falling, with a copiousness so fecundating and alimentary. Indeed, if he had understood correctly, it was now a standing order, that even our smaller vessels, drawing but twelve or fourteen feet, were prohibited to go into Charleston to refit, where a ship can carry in seventeen feet, to use the seaman's phrase, unless from stress of weather, although we have in great abundance both naval stores and ship mechanics. We are thus deprived, almost as effectually as our brethren of the West, of the privilege of ever seeing our national banner wave on our waters, over those memorials of our glory to which we have contributed, relatively, our full contingent of blood and treasure.

But he would not discuss further this invidious topic; if he had been betrayed into it, it was because the debate had, on another occasion, taken a course which justified it, and whilst he felt it impossible at this time to vote for the bill under discussion, for the considerations he had stated, he nevertheless hoped that, at no distant day, to vote for a system of internal communication clearly within the delegated trusts of the constitution, calculated to give us invulnerable security in war, and the blessings of a prompt and social communication in peace, by which knowledge should become more valuable in the increased velocity of its momentum, and by the consequent enlargement of its dominion.

In concluding, he would remark, that, in order to render any policy in this country beneficial and permanent, you must make it extensively popular. He did not desire to be misunderstood: he did not mean "that mushroom popularity, which is raised without merit and lost without crime," but a popularity founded on the considerations of an equal and beneficent justice. Partial and

disconnected appropriations for the object of internal improvements, without reference to any fixed system, or under any fixed principles, would lead to heart burnings, and would bring the whole scheme into distrust and odium. It might suit the Grand Seigneur, in the unlimited Government of his dominions, to set down and say in this part of my domain, this work shall be first accomplished, and this, because I do not like this portion of my subjects, shall never be commenced. In this confederacy, (and he thanked God for some purposes it was yet such) you must attend, by an equal, and, if possible, co-extensive distribution of your means to the wants of all, not by a comprehensiveness which would be destructive of efficiency, but by a well-founded and progressive system of exact justice.

Mr. H. said, that, in the course of a very few years, the public debt would be extinguished, by which period all our surveys would be completed; and it would be presumed, that our country was incapable of participating in the spirit of the age in which we lived, (which seemed in some degree, to exhibit the fascinating image of a world tired of the waste of human life by wars and bloodshed, seeking rather to multiply the valuable objects of existence, and to enlarge the boundaries of civilization,) if some portion of our great resources were not turned to the accomplishment of those works which form some of the finest memorials of the advancement of a people, in that most valuable of all national sciences, the knowledge of taking care of posterity as well as of themselves.

Mr. M'LANE, of Delaware, rose and said, that, as the honorable member who had just taken his seat, (Mr. HAMMETT, of South Carolina,) had professed his object to be not so much to make proselytes as to justify his own vote to himself, there was no imperative necessity for the friends of the bill to prolong the discussion, especially as he felt no desire to deprive the gentleman of any consolation he might derive from the reasons he had assigned, of which, in the fullest extent, he thought the gentleman would stand in great need. And yet, said Mr. M'L. the relation in which the state I represent is placed, to the work proposed to be aided by this bill, makes it proper that I should briefly reply to the arguments submitted by the gentleman from South Carolina.—Mr. M'L. said, the danger he had always apprehended in regard to these subjects had now arisen. He had never believed the constitutional objections to be the greatest difficulties; these were matters of construction arising out of the words and spirit of the constitution, which could be combatted by argument and sound reasoning, by which the judgments of men could be addressed and convinced. This task had been performed; in this House and in the nation, the doctrine had prevailed. Not only had public opinion yielded to the powers of the General Government to engage in internal improvements of a national character, but had even outstripped and gone ahead of the notions maintained here. But now, said Mr. M'LANE, after we have gained the victory over constitutional scruples, we are met with precisely the obstacles most to be apprehended, because they are most difficult to be reconciled. The friends of the cause create impediments, of which its opponents take advantage more fatal than all that have gone before:—objections on the score of expediency, arising out of the partial operation of our measures, out of local interests and sectional feelings. We are forbidden to exert our power in one part of the country, unless we employ it in every other. We must not spend money in the West till we can spend as much in the East, nor begin a work in the middle states till we can use a like sum in every part of the country. It behoves the friends of internal improvements to discourage these difficulties in the outset. They will not be so easily combatted by any argument, however powerful, because, arising out of local views, and conflicting feelings of sectional interests, they are regulated by the

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the prejudices, and not the reason, of gentlemen. They are unyielding in their character, and acquire force by every partial success.

The gentleman says it is not time to begin; we have ordered surveys, we must not act till we have the whole system before us, and can accomplish the whole. Sir, said Mr. M'LANE, it is no longer a question whether we shall begin, but whether we shall be arrested in our progress, and stand still. We have already begun, we have made great and useful progress—we could not stop if we would. It is our policy to pursue our way gradually and with a sure step, having a proper regard to the importance of the object, and the means at our command. If we refuse to act till we have before us the whole of any scheme or system, which the imagination of gentlemen may devise, we shall never do any thing; for such a system never can be matured, so long as the country itself is in a progressive state. The notions of the gentleman from South Carolina, in relation to this great system, are fanciful and impracticable. We meet the wants of the country as they arise. If the interests of the nation require our interference in a particular work, and we have full information as to that work, we should employ our power, without looking for other objects. If we wait for the general survey, it may never come.—When it arrives, it may not be complete—it cannot be. The objects of internal improvement are as diversified as the interests of the country, and constantly increasing and changing. We order a survey of certain objects in one year in the West; and in another in the Atlantic States. A year afterwards, new objects spring up and are suggested, and new surveys follow. The information developed by the surveys themselves, present new and more important objects, and we find them constantly multiplying upon our hands. How long is this to continue, and what period are we to fix, before we shall begin to select some one or more on which to commence practical operations? Mr. M'LANE said, whenever this great system should be made up, if it ever could be, it would be folly to expect the whole to be entered upon, at once, as a whole. It would be too great for the resources of the nation. It would be too unwieldly for any body to encounter; it would fall by its own weight, if attempted as a whole. It would have necessarily to be a work of ages, and centuries would be required for its completion. But the government would have to go on progressively, selecting from the scheme those objects, which the exigencies of the country immediately required, and to which the national means would be adequate. This doctrine, he said, was not new. It had always been acted upon. In relation to the system of defence by fortifications, it was the known and approved policy of the government, and had been always defended by the gentleman from South Carolina himself.

Ever since the termination of the last war, we had been making surveys, with a view to the military defence of the country. A regular corps of engineers had been constantly employed in developing the most eligible sites for these works. Numerous reports had been made, and the surveys were yet in progress. Was it ever pretended that we should not begin to fortify until we could know all that it would become necessary to do in this way? Should we have refused to fortify New York, or Boston, or the Delaware, or the Chesapeake, till the whole country could be explored, to see how much more might be done? To protect no part of the country, until we could see how many others might be protected? On the contrary, said Mr. M'L., determining upon the expediency of defence by fortifications, we have proceeded with all reasonable despatch; we have consulted the particular exigencies of the country, acted upon information as to particular places, whenever it was complete, leaving others for future operations. With this view, we have classified our system of defence in reference to their necessity. One class to be executed immediately, another at a longer period, and a third still

more remote. If this work, of the Delaware and Chesapeake Canal, be important in a military point of view, and he hoped to shew it was not less so than some of those fortifications, why not act in relation to it upon the same principle? If it be intimately connected with the military defence of the Atlantic frontier, and he believed it was—the gentleman himself had placed it on this ground—why not begin it at once, with the other great works now in progress for the same object?

Mr. M'L. said, in every point of view in which he had considered the subject, the measure proposed by this bill was recommended by the wisest considerations.—He had always entertained the opinion, that the best mode of applying the resources of the government to great national works, would be to come in aid of individual skill and enterprise, where practicable, rather than to execute the work by the government. Such works, when undertaken exclusively by the government, were always more expensive, and sources of constant burden and expense, in making repairs and keeping them up. This was a reasonable objection urged to the appropriation for the Cumberland road. But, where individual enterprise, always careful of its own interest, and not likely to embark in ruinous projects, had been led to the projection of a work of this description, the Government might safely embark its capital in aid of the enterprise. This would be to cherish, encourage, and sustain, the spirit and industry of the citizens, and, without the absolute gift of the funds, conduct it to the mutual improvement of the country, and the attainment of great national objects. There could be little danger of loss in such a policy, since it rarely happens that a body of intelligent men would embark their individual means without a reasonable prospect of profitable employment; and, the work once being accomplished, the same funds owned by the government could be transferred to other objects of similar importance, and ultimately attain the most extensive benefits, without any sensible effect upon the means of the revenue.

The bill before the House conforms to this policy. It proposes a subscription for 1500 shares of stock in the Delaware and Chesapeake Canal Company, to be paid at the same periods, and in similar proportions, as the other stockholders, and to give the government a control over the company in proportion to its interests.

The work itself is of the utmost importance, not only in a commercial point of view, but as it regards all the great interests of the nation. Consider it as you will, it is exceeded by no other work of the kind which has been projected in this country. It is not a work of experiment, suddenly suggested, and hastily adopted, by the magnificence of its consequences. It is a project of half a century; has grown up under the auspices of the most enlightened, scientific, and practical men for that period of time. A company has been incorporated by the authority of three states, authorized to make the work. Individual subscriptions, to the amount of ——— dollars, have been obtained; and, in aid of these, and in common with so many others, the government is now asked to subscribe for 1500 shares, which, if done, the work will be completed.

In embarking in this enterprise, we violate no state rights—they, at least, are, in this instance, secure. We encroach upon no municipal authority, because we are acting under its immediate and express sanction. Of the entire and absolute practicability of the work, with the present aid, no one who has attended to the subject, and to the lucid exposition of the honorable chairman of the committee who reported the bill, can doubt. The route has been established under the direction of the most skillful engineers, civil and military, in the United States. The estimates have been judiciously made—contracts for the whole work already entered into with responsible persons, at a sum within the estimates, and the work is in a rapid and prosperous advancement. The gentleman from South Carolina calls for a survey. Sir,



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he has it, and the best that could be made. The gentleman has not yet to learn that this work has been surveyed, in two successive years, by a part of the military corps of engineers of the United States, under the immediate direction of the Government, and by them approved and adopted. Sir, I should be safe in saying, that, to the judgment of these engineers, the present location of the route of this canal is to be mainly attributed. In the earlier stages of this work, a different route had been contemplated, and at a far less expense, within the amount of individual subscriptions. This route has been changed by the recent surveys, and another adopted, requiring more labor and more money. When I consider the character of the men engaged in this survey, I am bound to believe that their location has been judicious; but, it is, nevertheless, owing, in a great degree, to the decision of these United States' Engineers, that the cost of the work has exceeded the means of the individual subscription, and therefore requires the aid of the Government. But the gentleman says we must wait for the surveys of the last session. How can they aid our deliberations? Of what benefit will the surveys of the country west of the mountains, or on the lakes, be to us, in relation to this Delaware and Chesapeake Canal? We know as much of the work now as we should after any number of surveys. It is admitted, on all hands, that this is a work of the highest national character, essential for purposes of commerce and defence; that, begin when we may, this must be the first object to which we must turn: then, why wait, I repeat, for surveys, which can shed no new light upon a subject of which we are already fully informed?

It has been said, however, that there are great individual wealth and enterprise in the country through which this canal passes, and to that its accomplishment should be left, and our means employed where these causes are less active. That the portion of the country immediately interested in this great work forms a very important section of the United States, both in regard to its wealth and enterprise, is most true; and, therefore, in my view of the subject, it demands the favorable notice of the Government. It is precisely such portions of the Union, where wealth and enterprise abound, where the business and concerns of society are the most extensive and important, requiring to be cherished and entitled to protection, to which we should be attentive. If, connected with such a district, there should be found some great national work, rendered more important by these considerations, but which local causes retarded, there would be the greater reason for our interposition. The opposite argument would lead us to assist the idle and neglect the enterprising. Instead of fostering and cherishing the spirit of an enterprising community, the gentleman would have us to spend our money on barren plains, or where there was not sufficient industry in the population to develop their natural resources.

Sir, said Mr. M'LANE, this work will not be completed by individual enterprise, and for the plain reason, that it is more a national than an individual work. It is less beneficial to any particular district or section of the country, and especially those in its immediate vicinity, than of the country at large. Its importance is, in a great measure, owing to its influence on distant and remote parts of the Union, in their intercourse with the great Atlantic cities, and the facilities it affords the government in all its defensive operations. Such considerations, important as they are, are not the most active impulses to individual enterprise. Individual industry is for the most part limited to its own immediate necessities. Men every where look to the interests of their city, or state, or county; they expect sensible advantage to their property, or immediate profit from their undertaking.—When these are sufficient to move them, they go on; when great public benefit or national advantage form the chief incentives, they are slow in their progress;

they leave these things to us; they are careful and active in their own concerns, they expect us to be so of ours; and it will be well for us not to be less attentive than they.

When the House consider what every portion of the country immediately connected with this work has already done towards internal improvements, together with the means of some, and the conflicting interests concerned, the amount of individual subscriptions already made is a matter of applause rather than complaint. Pennsylvania, Delaware, and Maryland, may be said to be those more immediately interested in this work. In Pennsylvania, great aid has been afforded, as well by her Legislature as her individual citizens. Although the greatest extent of the canal passes through the state of Delaware, she is the smallest in population and resources of either of the others; and the chief, if not only advantages to that state, from this work, are confined to a single county. The Legislature of that state, with great liberality, but more from a public spirit than any immediate interest, have contributed her full share to the work. But so little interest has the other parts of the state in the canal, that it may well be doubted, if she possessed the means, whether she would employ them in such a work, to the injury of other duties. In Maryland, the benefits from the canal are supposed to flow, principally to the counties on the Eastern Shore; and an impression has always prevailed, that the commercial interests of Baltimore would be more injured than advanced by the work. A jealousy of Philadelphia has accordingly sprung up, I believe, without foundation, which shuts out all aid from that quarter, and exerts a powerful influence over the Legislative Councils of that state.

It is, therefore, because of this peculiar state of things, and the various conflicting interests of those states connected with the work, that the Government is required to come in aid of individual spirit and enterprise, and complete a great national improvement which will otherwise be abandoned.

And now, sir, said Mr. M'L. permit me to ask if this be not emphatically a great national work? Setting aside the great commercial advantages and facilities afforded by this work, to the remotest and most extended sections of the Union, and which would, therefore, authorize the exertion of the commercial power of the Government, and, considering its national character in reference to the military power and duties of the Government, as assumed by the gentleman from South Carolina, it demands our prompt and efficient interference.

Though vastly important in itself, it was not enough, Mr. M'L. said, to contemplate this canal as a solitary work. He looked upon it as but one, though certainly the most material link in the great chain of internal communication on the Atlantic frontier: of that chain which was to unite Boston Harbor with the river St. Mary's, and to bring the extremes of this continent together. When gentlemen contemplate the system of defence along our maritime coast, the local position of our naval depots, and the different fortifications; the necessity of the transportation of munitions of war, of naval armaments, of the army itself, and the whole materiel of military force, when we consider, too, that all the active operations for the defence of every part of the country, against the invasion and assaults of an enemy, must be on the Atlantic seaboard, it is impossible to estimate too highly the advantages, nay, the indispensable necessity of a safe and expeditious intercourse and communication between its various points. There is no principal military work on the whole Atlantic line, to which this canal would not be a powerful auxiliary, to which it would not give new and powerful efficiency. If gentlemen will revert to the scenes of the last war, they will derive an impressive lesson upon

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this point. Deprived, as we were, by a small force of the enemy, of the means of an Atlantic intercourse, the whole military transportation of the Government was carried on over land, and under difficulties almost insurmountable. The extra expense alone, to say nothing of delay and waste, incurred by the Government in their transportation across the route of this canal, during the late war, would amount to more than the sum we are now asked to subscribe to the work. It is in vain that we build extensive fortifications and establish our navy yards, if we are left without the means of easy access from one to the other; if, in the moment of our greatest exigency, our communication with these important posts is cut off or obstructed. Mr. McLANE said, he had the authority of the most distinguished military men for saying, that the defence of the three cities of New York, Philadelphia, and Baltimore, including the intervening country, could be made sure and complete with one-third of the military force, with the aid of these canals, that would be required without them.

Our military defences, he said, should be considered in reference to a time of war, and should be constructed in time of peace, with a view to war: to neglect them now, would expose us to the hazard of that contingency, and a want of necessary preparation when the crisis arrived.

Mr. McLANE said, he should maintain, without the fear of contradiction, that this chain of interior canals was essential to the military power of this Government: complete protection could not be given to the country without it. The Government could not exert itself so wisely or profitably as in augmenting the means of defence. The arm of the Government was never so strong as when raised for the protection of the citizen. Its powers of defence endeared it to the people, led them to perceive and acknowledge its necessity, to admire its utility, and strengthen its resources. This Government could not be too lavish of its funds in the means of defence. No expenditure could be wasteful or improvident, if made among our own people, for their complete protection. But the raising of armies and equipment of fleets, were not the only means of defence: to a certain extent they were necessary, but totally inadequate to all the objects of defence. They were, moreover, expensive, in some instances dangerous, and he doubted whether the utmost resources of this country would be sufficient to defend the people by armies, navies, and even fortifications. We were not defended by an army which should wait to receive the enemy on his landing, and drive him back to his ships. An enemy commanding great maritime means, would distress us more, and produce greater ruin, by shutting up our ports without landing a soldier. By this means he would carry the pressure of war into every part of the country, and enfeeble the Government in maintaining large armies to watch his invasion. Our means of defence, to be effectual, should be carried to the homes and the business of our population. We should give protection to the labor and occupation of the citizen, so that he should not only be secure in his person, but safe in the pursuit of his industry. Such a species of defence has been entirely overlooked in considering this subject. But we cannot have forgotten the experience of the last war. We suffered, it is true, from the sudden incursions of the enemy, but in no degree equal to the calamities which every where pervaded the Union, even those parts most remote from the immediate theatre of the war. A blockading squadron at the Chesapeake and the Delaware, completely cut off the communication between the Northern and Southern sections of the Union. The industry of the people was paralyzed, the product of their labor rotted on their hands, the activity of the manufacturer was at a stand, the means of interchange were destroyed, individual suffering every where pre-

vailed; no one felt the power of the Government; every one complained of its weakness. If, in such a war, there were an easy internal canal communication, we should be, in a great degree, beyond the power of the enemy. He might thunder in vain on our shores; our fortifications well garrisoned, aided by a small army judiciously posted, would prevent his landing, and the great business of the community proceed actively and securely. The horrors of war would not visit the interior. Individual happiness and comfort would be promoted, the wealth of the nation be increased, and when the Government should have occasion to call upon the friends of the people, to strengthen its arm, it would not call in vain. It would call upon a cheerful, powerful population, and thus derive resources adequate to its greatest necessities. Sir, I pray gentlemen to allow the experience of the late war, aided by these considerations, to inculcate upon them to delay no longer the accomplishment of this great means of national defence and national protection. We are admonished, however, that the state of the Treasury will not justify this expenditure. We are told to wait till the public debt is paid off, and the nation is out of debt. This argument has been so often repeated during the present session, as to induce some to believe there may be something in it. After hearing from every department of the Government so much about the flourishing state of our finances, it would indeed be strange if we had not the means of making a subscription of \$350,000, to be paid gradually in the course of two or three years, without sensibly increasing our obligations.

Sir, I do not mean to say that a public debt is a public blessing, and yet I believe there is no man in this nation who seriously believes that our present debt is in the least degree alarming, or even to be regretted. We owe eighty-eight millions of dollars, which, by the ordinary means of the Treasury, will be utterly extinguished in ten years, leaving annually in the Treasury an excess of about three millions of dollars, for miscellaneous expenditure. It has always been the policy of the Government to pay its national debt by the application of the sinking fund alone, amounting annually to ten millions. It is a wise policy. It would be injurious to pay it off more rapidly. The annual redemption of ten millions of debt, is as much as the interest of the creditor will bear. A sudden displacement of more capital, in the present state of the country, would be injurious to the Government and the creditor. We are already exchanging our six per cent. stocks for others bearing an interest of only four and a half per cent. Let gentlemen imagine the consequences of suddenly paying off the eighty-eight millions of public debt. Our true policy and duty undoubtedly are to pay off our debt no faster than the creditor may have the means of some other judicious investment of his money. So long, therefore, as we preserve an excess of two or three millions of dollars beyond the amount of the sinking fund, we are invited, by every consideration of policy, to use that excess in the promotion of the great objects of national importance.

Mr. McLANE said he would delay the House no longer than to urge upon them the propriety of an early and seasonable interference in aid of this great work. If it be wise, for the considerations already adverted to, there is no time so auspicious as the present. The work is now in the hands of judicious, enterprising individuals: public spirit is enlisted in its cause. If we cherish this spirit, and aid the enterprise, we shall conduct it to the happiest results; the work will be soon completed; its influence will extend to other places, and gradually accomplish the whole. But, if we neglect it now, we may find it difficult to do it hereafter. This enterprise has already suffered from temporary discouragement. Twenty years ago, it was projected under favorable auspices—a capital was subscribed—a route

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located, and the work considerably progressed; but the funds failed, the Government withheld its aid, and the project went down. It has been the labor of twenty years to recover it from this fall. Again, however, it is resuscitated, with even greater spirit and more means. We may cherish these resources, and accomplish the object now, by a comparatively small sum; but, if we suffer this new effort to languish and sink without our encouragement, I very much fear we shall hear of it no more; and, when our public necessities force us into the project, as they unquestionably will, four-fold the amount would be required for the accomplishment of the object.

Sir, said Mr. McL. I submit this subject to the House, with the fullest confidence of success. If he knew himself, he was not governed by any local consideration. He had been the uniform advocate, ever since he had the honor of a seat on this floor, of internal improvement. He had always given his humble aid in behalf of every national object, whether in the East or the West. He hoped he would, on this occasion, meet with similar liberality from others. The aid was asked for no one state, but for the nation at large.

Mr. MALLARY, of Vermont, observed that when, at the last session, the bill for procuring estimates and surveys, preparatory to a system of internal improvement, had been discussed, the friends of that general system placed the measure on the ground, that it was to be carried into immediate execution. He doubted the power of Congress, under the constitution, to adopt that system. He would not now enter upon the constitutional question, but would merely state the reasons why, notwithstanding his sentiments on that subject, he felt at liberty to vote for the present bill.

The doctrine which had been then advanced, he understood to be this—that the General Government had, by the constitution, an inherent power to determine upon the best route for a road or a canal, and then to make the canal or the road. Mr. M. had objected to this, because he thought it was interfering with the authority of the states, and he had, therefore, voted against the bill for surveys and estimates. What, asked Mr. M. is the system to which that bill had reference, and about which so much had been said on this floor? So far as he understood it, it was a plan which was to emanate wholly from the Executive Department of the Government. According to that bill, the President had the making of these surveys placed under his own absolute control: he might send engineers just where he pleased; collect just such facts as he might think important and interesting, and present them to this House. When this should be done, what was the course to be pursued by this House? Was he to understand gentlemen that this House was pledged to carry into effect the plan of the Executive? He had the greatest respect for the President; but, in examining a subject of this kind, it was proper to consider it in respect to possibilities, and it certainly was possible that a plan, emanating from the Executive, might, when it arrived at this House, be considered as defective in extent, or partial in its bearing—there might be many reasons why the House should not think proper to adopt it. What then was to be done? a new plan must be gone into, and still further delays occasioned. He apprehended that those who are opposed to the system, on constitutional principles, would have reason to fear that the plan would be so formed as to combine all the different parts of the country; and, if any such combination was attempted, the feelings of all must be consulted. Besides, if we adopt a general system, we run the hazard of collision between one section of the country and another. For his own part, whenever the state of Vermont or Massachusetts, or any other state, presented to Congress a useful object, he thought they might rely on the Government to give it such aid and support as its merits might require. He

thought that Congress was much safer, in selecting objects for itself, than in having them selected and arranged for them. This they were perfectly competent to do, on isolated objects, without regard to any system. For himself, he wanted no aid from other sections of the country, to induce him to vote. If the gentlemen of the South wished to unite the Tennessee river with the streams that empty into the Gulf of Mexico, he was ready to act; but a report on that subject would not make him any wiser about the Delaware and Chesapeake Canal. Congress must judge on each object singly. To the present object, any constitutional objections against the system, did not apply. There was here no question of jurisdiction—no state rights were invaded—the only question to be considered, was, will you appropriate a sum of money to promote invaluable and important objects.

On the subject of the importance of this canal, he should trouble the House with but a few remarks. Its value, as one connecting link in the chain of internal communication, immediately along the seaboard, had been already stated, with clearness and ability, by the gentleman from Delaware, (Mr. McLANE). But we now have canals to the interior also: one is now proposed which is to pass from the banks of the St. Lawrence river to Lake Champlain—another is contemplated from Lake Champlain to the Hudson river: a third is in progress from the Hudson river to the Rariton, and from the Rariton to the Delaware; and the peninsula between the Delaware and the Chesapeake is the only intervening obstacle to interrupt our line of communication from Canada to North Carolina. That obstacle will be removed by the present canal. It was, therefore, the great interest of the interior to aid the undertaking; and he thought that, in this point of view, it could not but strike the minds of gentlemen with peculiar force. He thought there was no great weight in the objections of the gentleman from South Carolina, (Mr. HAMILTON,) about the mingling of public and private interests in the same undertaking. In many cases, beneficial effects might follow from having them blended together; at least he could see no injury from the Government joining in an enterprise, when the resources of individuals proved insufficient to its accomplishment. Are we, asked Mr. M. to withhold our aid from a useful and laudable undertaking, because it has been commenced by the enterprise of individuals? By entering into a subscription to the stock of this company, the Government was in no danger of becoming a loser, because all others, who held that stock with them, would have a common interest in making the stock as good as possible. Having these views of the object of the present bill, he thought it was the duty of the House to enter into the design with zeal; and he trusted the subject would not be treated by gentlemen with a frigid and disheartening indifference.

Mr. ELLIS, of Pennsylvania, felt great reluctance to occupy any portion of the time of the House, after the very able argument they had just listened to from the honorable gentleman from Delaware, (Mr. McLANE,) and after the grounds upon which the friends of the bill rested it, had been so amply explored by that gentleman and others. Under these circumstances, and the lateness of the hour, the attention of the House to the few remarks he had to make, he could only consider as matter of indulgence.

There still may be, he thought, some parts of the subject not fully investigated.

He would consider some of the principal objections urged by gentlemen opposed to the passage of the law, and would confine the discussion to principles rather than detail.

Some gentlemen opposed to the bill, deem the present time as not proper in which to undertake the execution of any part of the contemplated Internal Improve-

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ments. That Government have yet to provide the means and apply them to the reduction and discharge of the national debt; that this policy is indicated by the state of public opinion on the subject. A further objection is made to the passage of the present bill: that we have yet derived little or no benefit from the act of last session of Congress, authorizing estimates and surveys of roads and canals; that no general system has been adopted in reference to the subject. Mr. ELLIS agreed with gentlemen who urged the objection, that Congress were bound to meet and discharge the public debt; but he did not believe a just regard to this important subject incompatible with the objects of the present bill. He did not think the present an unpropitious time to engage the attention of the Government upon the interesting subject of Internal Improvement. What is the character of the present time? said he. Under the blessings of Almighty God, we enjoy a profound peace, a time peculiarly proper to foster all the means to secure its blessings.

It is said, that, in ten years, we can discharge the public debt; that this is an object of the first importance; and that, during this period, we can obtain the surveys and estimates for the grand system which seems to be floating in the minds and speculations of some gentlemen opposed to the bill. But who can foresee what the lapse of ten years may produce? That period of time may bring to us a foreign, maritime, and even a territorial war. None will say that these great objects can be effected in a time of war. If their completion has any relation to our means of defence, we are more strongly bound to commence the system now. Under these views, we are proceeding with liberal annual expenditures upon our system of fortifications; then why not aid the most interesting—National Canals?

The reasoning upon which our military and naval establishments, and our system of fortifications, is supported, may be perfectly understood in this House. But their absolute advantages may not be so clearly seen by the people at large; yet large sums are annually appropriated to them, and he believed, with general approbation. But how much more complete may that approbation be expected to be, when the appropriations shall be for the completion of great designs which the people every where perceive to be intimately connected with their happiness and prosperity. The public mind has been clearly expressed on this subject. These opinions are not idle and visionary. The public mind cannot be misinterpreted on this subject. The strong language and warm feelings of approbation of internal improvements in many of the states, have been clearly expressed by the most salutary laws of their Legislatures in reference to this subject. Another objection relied upon by gentlemen opposed to the bill, is, that no general system has been adopted; that no information, comparatively, has been obtained under the act of last session. Mr. ELLIS believed that all that was expected from a digested system, might be obtained by resolving the course of procedure to be adopted by Congress into a single principle, and which, in practice, would be found to be perfectly simple and obvious. If this principle should indicate the object of appropriation and expenditure—you then have the system so much talked of, in as safe a form for practical purposes as possible.

The objects of appropriation, he said, were purely national, or partly so. The first may be said to be the interest of foreign commerce—the army and navy. The second, an internal communication among the several states—fortifications and the improvements of harbors. No general system, except those adopted, can be required to apply appropriations to these objects, except that of the fortification; on this last subject, the most accurate scientific information, from the nature of the subject, was required. But the objects of national le-

gislation and protection, in the system of internal communications, proposed to be aided by Congress, could be perceived at once by the People and by this House. We have been warned to proceed with caution in commencing this great object.

True, said he, I would proceed with all caution—I would avoid rashness—I would avoid all the causes that might possibly produce a reaction in the public mind.

In the object of the present bill, every thing is prepared and digested. He said that he considered an appropriation in this House to imply and presuppose an estimate; he would always vote upon this principle. In the appropriations for the army and navy, the Secretaries of those great Departments were bound to give this House such lucid estimates, such clear statements of facts, that the appropriations to be made would follow of course. How, he asked, would these principles apply to the subject under consideration? Nothing was here left to chance. Surveys, estimates, and contracts under those estimates, had all been actually made; every thing of this kind was settled, and the operations upon the canal were now progressing, under a board of enlightened managers, and an able engineer. Suppose the general system digested and produced, it could throw no additional light on this subject. It stands on its own merits, and is confessedly an object of the first national importance; an extensive portion of several states will be greatly aided by it. He said that the navigation of the Susquehanna had long been a subject extremely interesting to the People of Pennsylvania. The Legislature of that state had made liberal appropriations to improve the bed of that river through all its falls to tide water.

The navigation of that river has always been of the most hazardous kind, and yet the hardy and enterprising men who live along its shores had surmounted all its natural difficulties in getting the produce of the country to a market.

According to a hasty estimate which he had made, from his knowledge of the country bordering upon this river, and without referring to any certain data, he supposed that, in the article of wheat and flour alone, there was an amount of \$1,000,000 annually transported to market by that river. To this may be added, the other productions of that immense and fertile country bordering on this river, pork, whiskey, lumber; and to these again may be added a new article in the interior commerce of the states, namely, coal. The country bordering upon the Susquehanna abounds with this mineral, and, under all the present disadvantages, has found its way to a market at your cities.

The great country of the Susquehanna, he said, was rapidly improving, and as rapidly increasing in population. All that he had said of the Susquehanna might be applied to the Delaware. The article of coal, on that river, had become a most interesting matter, in the commerce of the interior with Philadelphia. It seemed then, in these views of the subject, of the first importance, that the contemplated communication should be completed, between the bays of these rivers. In a military point of view, he considered it of infinite importance to the country, that the object should be effected. Upon the completion of the canal through Jersey, it would open the most perfect communication between Baltimore, Philadelphia, and New York. Troops can be moved to any of those points, with a celerity now impossible. And to this may be added, the transportation of every species of the munitions of war. In a word, as regarded the defence of the country, he considered it as of greater utility to the country than any one single fortification.

Some reference had been made to the expenditure of the public treasure among some of the states. He regretted that this mode of argument had been resorted to; but, since it had, it was but just to say, that it could not

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apply to Pennsylvania. For himself, as a Pennsylvanian, he regretted that it had been found necessary to apply to the General Government for aid; but since the application had been made, he thought it could, and ought to be supported, upon the best views of the subject, as a national measure.

Mr. HOGEBOOM, of New York, said that he should not detain the House by any lengthy remarks on the subject now before it. He had no objections to internal improvements, and he had no objections to internal industry. As to canals, when we take a view of the United States, we see that there is a chain of mountains running North and South through the whole country, and within was an enclosed space abounding with navigable rivers, leading to the sea. He thought that the best general policy was, to open the course of these rivers, and to make them navigable, so that the inhabitants of the interior might have access to the seaboard.

[Here the attention of the Reporter was interrupted, and he lost some of Mr. H.'s remarks, but he was understood to say that] there were four of the old states interested in the canal, and the General Government also. He did not think that any were likely to meet with encouragement, but such as benefitted the General Government. At the last session, gentlemen had said that the new Tariff was necessary to protect our own industry, and teach our people to manufacture for themselves. They seemed, then, all to be mightily in favor of internal industry—but this year, the scales seem to be turned—all were in favor of internal improvement; and he found that internal improvement was something very different from internal industry. The object of internal improvement appeared to be, to take money out of the Treasury; the object of internal industry, not to bring it in.—For his part, he was in favor both of internal improvement and internal industry.

Last year, the article of cotton bagging was brought forward, and a duty was laid upon it almost equal to the price of the article; but, notwithstanding this pressing duty, the poor weavers of Inverness and Dundee furnished two-thirds of all the bagging that was used in the country, and now, the little money that was in the Treasury was wanted out of it for internal improvement. The country had an immense debt hanging over it. This debt, at first, was forty millions. We had three years' war, and the debt was now nearly ninety millions; and we had been told all the while, that it was very soon to be paid off; but he believed, that if he lived to be a very old man, the country would be in debt still. The payment of that debt, Mr. H. said, was an object near his heart. He used to think, before he came to Washington, that internal industry and internal improvements were very much the same thing. He now saw that they were very different. He did not like the practice of taking shares in private companies, and he thought the United States had much better keep their hands out of it. If Government begins the practice of taking shares in any stock, he thought it would be a great means of creating an executive patronage. [Here Mr. H. quoted the article of the Constitution which forbids a capitation tax being taken, unless according to the census.] He asked if the Constitution was not a dead letter, if a tax raised equally from all the country should be laid out, for example, in the state of Delaware? Did not the Constitution intend that Congress should do justice to all? The New York Canal was not very internal—it passed pretty near the boundary line of the United States—yet he admitted that it was of great benefit. He was not fond that the United States should hold stock in the state of New York, or that the Government should carry on any public work in that state; for, some how or other, he had got a notion that the General Government was not so economical as the State Governments. He had made a discovery since he had been in Washington, and he had rather that the Government should not carry on

any public work in the state of New York. As to the little money that had been brought into the Treasury for the general objects of Government, it was as a unit to a thousand. All the great property in the country was in the states. The states had come together and given the General Government certain powers. All they wanted was, that the General Government should exercise those powers, and no others. He was quite willing that the Government should have power to erect forts for the defence of the country, but not that they should make roads. They ought to endeavor to carry on only the affairs of the United States. Many forts were now wanting in the state of New York. One was wanting on Lake Erie, and one on Lake Ontario, and another on Lake Champlain, and the city of New York was not half fortified. The whole United States were not near fortified, and now gentlemen wanted us to commence a system of internal improvements. He could not, however, find those words in the Constitution, and, at all events, he should vote against the present bill.

Mr. BRECK, of Pennsylvania, observed, that he rose not to enter into a discussion of the general subject, but merely to state the necessity of the aid of Government to prevent this undertaking from being entirely interrupted. He was in possession of data, from which he was enabled to state that, if the present bill should fail, that important work must again cease, probably for many years. The gentleman from South Carolina, indeed, (Mr. HAMILTON,) had said, that the canal passed through a populous and wealthy country, and such were the interests embarked in it, that, whether Government subscribed or not, the undertaking would certainly go on. In this the gentleman was greatly mistaken, and gentlemen would perceive that the reverse was true, when he made to them a few statements of the actual state of facts on this subject. It was almost twenty years since this canal was commenced. At that time, between two and three hundred thousand dollars had been subscribed, but subsequently, the course originally proposed for the canal had been changed. The money was expended, and the work ceased for many years. About two years ago the design was revived. The old subscription list had been examined, and it was now found that it would yield about 50 per cent. The Company had then applied to the Legislatures of Pennsylvania, Delaware, and Maryland, each of which had made grants of money to aid the funds. Efforts were then made in the city of Philadelphia to form a fund on which to recommence the work, but the attempt was attended with the greatest difficulty. Ward meetings were called, committees were appointed, all classes of people were applied to, not only merchants and capitalists, but shopkeepers and mechanics, and those of the lowest grade. The committees offered to receive subscriptions of a single dollar, and in many instances a subscription of ten dollars had been received, which were the aggregate contributions of several neighbors, who had united for the purpose. In this manner, four hundred thousand dollars were obtained, and there was now a deficiency of five hundred thousand dollars, and he was warranted in saying, that any attempt to get more in the city of Philadelphia would be made in vain.

As some explanation of that fact, it might be proper to state, that there were now held in the city of Philadelphia, in unproductive stocks, an aggregate of about four millions of dollars. In the Schuylkill canal, which runs one hundred and nine miles to Mount Carbon, there was held \$1,740,000; in the Union Canal which branches out towards Sweetara creek, about one million; in the Water Works, near Philadelphia, \$500,000; and in this canal \$700,000. All these stocks were, as yet, unproductive. Not a single cent of interest had been realized on all this capital, and if the 500,000 dollars, necessary to complete the canal, is looked for from Philadelphia, it will be looked for in vain; unless Congress shall lend



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the proposed aid, the work must be entirely suspended. He had made notes of some of the objections that had been already so ably answered, that he should not trouble the House with any further remarks.

The question being now called for, and being about to be put—

Mr. LIVINGSTON intimated an intention to address the House, and requested, on account of the late hour, an adjournment; which was agreed to.

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## SUPPRESSION OF PIRACY.

The Senate again proceeded to the consideration of the bill "for the suppression of Piracy."

Mr. TAZEWELL rose, and moved to strike from the bill the third section thereof, which is as follows:

"And be it further enacted, That, if any of the said pirates should escape from the fresh pursuit of the commanding officers and crews of any armed vessel of the United States, and find refuge in any of the cities or ports of the said island of Cuba, or other islands aforesaid, the President of the United States, on being informed of the fact in a manner satisfactory to him, of its authenticity, shall be, and he is hereby, authorized, at his discretion, to declare the said port or city to be in a state of blockade, and shall cause the same to be investigated by the naval force of the United States, till the said pirates shall have been secured and punished by the authorities of the said island, or until satisfaction shall otherwise have been made, whereupon he shall deem it just and expedient to discontinue the said blockade."

In support of this motion, Mr. T. said—

Mr. President: In proposing this measure, I do not by any means, wish to be considered as being opposed to the great object of the bill. So far from opposing it there is no member of the Senate, no member of the committee, not even my honorable friend and colleague, to whom so much is due for the zeal and ability he has displayed on this occasion, who is more favorable to the application of every proper means of obtaining the object than myself. Sir, it is precisely because I do not consider the means proposed by the third section of the bill, to be either proper or sufficient to obtain the end the bill has in view, that I have proposed to strike it out. It is unnecessary to recite again the phrases of this section. It is sufficient to observe, that its object is to authorize the President of the United States, under certain circumstances, to institute a blockade of certain Spanish ports.

The advocates of this measure, at the very moment they recommend its adoption to the Senate, acknowledge it is a war measure. They acknowledge, moreover, that the United States maintain, at this moment, the most cordial relations of amity, not only with this power, but with every nation upon the globe, and they declare that it is not their purpose to change, in any way, these relations of peace and amity, whilst they practise this measure of war. The argument my friend and colleague urges on this subject, is this: "We have just cause for war against Spain, and therefore, although at peace ourselves, we have a right to practise against her this war measure." It is not necessary, sir, for me, at this time, or in this place, to inquire whether the proposition, which asserts we have just ground of war against Spain, is correct or not; but I think I am authorized in saying, if the statement my friend and colleague made yesterday is well founded, that the existence of piracy within her dominions, is ascribable to the weakness and not to the will of Spain, it belongs not to a just or generous people to declare this weakness a just ground for war. *Parcere subjectis, et debellare superbos*, was the maxim the poet teaches as that which was inculcated by the wisdom of the dead upon the magnanimous enterprise of the living, in past times; and trust me, sir, whenever we depart from the course this advice re-

commended, we shall lose much of that moral force which constitutes the great power of the people of the United States at this moment, while we shall not add a single sprig of laurel to the garland which now adorns our brow. Suppose we allow there is just cause of war with Spain; does it follow that any obligation is thereby imposed on us to exercise the right thus acquired? Because a nation has a just cause of war, is it to be argued, that she must, of necessity, engage in it? She surely may waive the right of waging war, if she thinks proper so to do; and when she waives this right, it must be admitted its incidents and mere consequences follow the right so waived, and she can no longer claim the shadow, after she has voluntarily waived and abandoned the substance which produced it.

If this be so, it is not correct to argue that, because we have just cause of war, we may, in times of peace, adopt a measure which belongs to war alone; and, least of all, does it result, that, while you are maintaining these relations of peace and amity with all nations, you are at liberty to put in practice measures of war, which will not fall on the offending party alone, but on the innocent and meritorious only. Here, then, exists the first and great difference between the advocates of this measure and myself. They say that the measure proposed is designed to act, and must act, "upon the guilty alone." In my view, it can only affect the innocent and meritorious; and, if this position be established to their satisfaction, I venture to hope the advocates of the bill themselves, when they find that this measure, instead of promoting the end they had in view, is calculated to produce an effect diametrically opposite, will unite with me in the effort to expunge this section.

I say, sir, that this measure, authorizing the Executive to institute a blockade, can operate on none but neutral states. A war measure practised in peace is an anomaly, such as history no where records, and where parallel even prescience has never yet foretold. We have no standard, then, by which to try its character or ascertain its effects, and there is no reasoning that can be applied to this non-descript. I think, however, I shall approximate the truth in contending, that a blockade, in time of peace, can confer no more right, and impose no more duties, than a legitimate blockade exercised in war, by one of the belligerent parties. I assume this as a postulatam, then, that this war measure, practised in peace, places all parties in the predicament a similar measure practised in war would do. I know well, sir, what are the rights and duties given and imposed by a blockade declared in time of war, but, in relation to this peace measure, I am ignorant of its consequences, and can bring it to no other standard than that I have thus stated. I can reason on it in no other way than by supposing that this blockade, instituted in time of peace, gives to all the parties, on whom it may operate, just the same rights and no more, than a blockade in time of war would do.

If it be contended that it gives more, I call upon its advocates to shew from whence they derive the excess. I might, perhaps, contend that it did not confer so many rights, but I am content to concede this, and to place the two measures on the self-same footing.

Mr. President, wherever war exists, all the inhabitants of the world must occupy one of two relations: either they are belligerents, or they are net. In the former case, there can also exist but two relations: those claiming and practising the right of blockade, and those against whose ports the right of blockade is directed. This blockade, if it acts at all, must, therefore, operate on one of three parties: 1st, On the citizens or subjects of the nation declaring the blockade; 2dly, On the citizens or subjects of the power whose port is blockaded; 3dly, On any others, that is to say, on neutrals.

Let us now consider the case of citizens or subjects of the blockading nation. It has never been said, it has

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never been thought, it has never been even dreamt, I believe, by any, before this day, that a belligerent blockade ever did or ever could act upon these.

We have been told of a blockade by statute, but my honorable colleague is mistaken, I believe, when he traces the rights and duties it creates to this source. No, sir, the power to declare it is derived from no such paltry municipal spring; it flows directly from the great and pure fountain of the public law. And when so derived, its influence extends over all upon whom this high law acts, that is to say, over the whole civilized world.

Deriving its powers thus from the law of nations, how idle would it be for a Government to invoke the aid of such powers when it would act upon its own subjects! Sir, the relation which subsists between sovereignty and subjection, between a nation and its own people, is that which enjoins and requires all power on the one hand, and all subjection on the other; and the only doubt which ever has, or ever will exist, is, in what hands this unlimited sovereignty, demanding unlimited obedience, might most properly be confided. We say, (and, I think, say truly,) it can be trusted no where with propriety but to the people. But whether it resides with an Autocrat, with a King, Lords, and Commons in Parliament assembled, or in the People, wheresoever it is found, it is equal, and it is equal only because it is supreme.

The language of this sovereignty, addressed to its own subjects, must, therefore, ever be the language of command, "*sic volo, sic jubeo; set pro ratione voluntas.*" And this language we, the people of the United States, acting in our sovereign capacity, are as much authorized to address to our own citizens, as the most puissant sovereign on earth is authorized to employ it towards his vilest serfs. For our sovereign rights are not less than his: they are both supreme.

If, then, you wish to prevent your people going to the Island of Cuba, pass an act to that effect—an act of Congress, with sufficient sanctions, will secure the object. Do they violate it? Enforce your municipal regulations by municipal means; nobody can complain of this, because they are your own people, and you may govern them as you think proper. But, it may be asked, what will you do with one of your people who should attempt to violate this blockade? Will you not capture him? Yes, and condemn him too—(I am speaking of a war blockade, with which this peace blockade must be compared)—we do not condemn him, however, for violating the blockade; with this he has nothing to do; we touch him on a spot far more delicate; we strike a chord that reaches to his very heart; we touch him on his allegiance, and say that he is a party holding intercourse with the enemy, and endeavors to give them aid and comfort. Your power over him is not then derived from the public law; the public law cannot operate on him; it is a mere municipal power derived from your own municipal code, directed against a traitor who eludes and violates the municipal authority.

Do you want further evidence of this? Do you want to be further satisfied, that the right of blockade is never exerted by a nation against its own citizens? You will find it in these considerations. Would you not capture him before the blockade began, or after it was raised, or even during its continuance, if he is found any where engaged in this purpose, although not seeking to violate it? Yes, and the principle is always the same; you always capture and condemn him as a traitor, holding intercourse with the enemies of his country, contrary to his allegiance, and never as a mere blockade breaker. As, then, the institution of a blockade produces no new effect upon the subjects of the nation declaring it, will it act upon the power whose ports are blockaded? This is a fallacy still greater than the other. In war, you capture and condemn your enemy, it is true, not because he is attempting to break the blockade, however, but because he is your enemy. You assign no other

reason but that. You say he is your enemy; therefore, you have a right to seize his person as well as his property, wherever you find either out of the protection of a neutral state. This right existed before the blockade was instituted, and exists in equal force after it is taken off; and during its continuance, wherever you find your enemy beyond the limits of a neutral state, although not attempting to violate your blockade. If so, a blockade which bestows no right, and imposes no new disability, cannot be considered as acting in any manner directly upon him; your right of action on him is derived from public law; it was perfect the instant war existed between you, and it is a right entirely independent of blockade.

Now, Mr. President, if the blockade does not act on your own citizens, or on your enemy, on whom can it act? If it act at all, it must act upon none but neutrals. I know very well, sir, that, although the *direct* action of a blockade is upon the neutral, yet the consequences may be felt by the enemy, and perhaps by yourselves; but that is merely an incident, a mere consequence, of the direct action, and you entitle yourself to the chance of inflicting this indirect injury upon your enemy, by entitling yourself to the right of acting directly upon neutrals. If such be the operation of a blockade, instituted *jure belli*, as fixed and settled by the public law, and if a peace blockade can bestow no other rights, then, as it is a measure designed to act not against the United States and Spain, but upon all the other nations of the civilized world, the question is, are we prepared thus to act upon them? The advocates of this measure seem to have looked only on one side of it; but this is not right. The effect of blockade is, to shut out all who are out, and keep in all who are in. It prevents egress as well as ingress. The neutral can no more go in than he can come out; and the only exception to this rule is, that he may, if he chooses, quit the port the moment he is notified of the blockade, provided he leaves it in the condition he was when that notice was received, in ballast or half loaded, if such was his situation at that time. And if he dares to put the smallest article on board after he is notified, he then acts as an enemy, by assisting the enemy in his commercial purposes, and subjects himself to confiscation thereby. Perhaps the advocates of this measure can explain why it is that neutrals are thus to be made to suffer, all of whom feel as we feel upon this subject, and some of whom have done their utmost to put down piracy, and whose efforts I grieve to be compelled to say, have been much more efficacious than our own.

I can imagine many arguments that might be suggested by ingenuity in favor of a blockade of ingress, but for a blockade of egress there can be none.

When you see your friend about to run into unknown ways, and press towards a precipice which, if overstepped, must bring him to destruction, you may, nay it is your duty, to warn him of his peril, to advise, to entreat, perhaps, in some *individual* cases, to prevent him from rushing upon destruction. But surely you act not a friendly part towards him, when you find him suddenly and unexpectedly surrounded by appalling dangers, if you require and compel him to continue in this situation, from which he would and has the means to escape, if you would permit him to do so. But yet this is the very course you will pursue, if you adopt this bill in its present shape. You blockade the port into which you have pursued the pirate, and will suffer none to enter there, because it contains the monster; and while you do and say this, you prevent all from escaping thence, although it contains the very beast of prey whom you have thus hunted into these formerly peaceful recesses.

The Dominican friars of old, when they clothed their victim in the habit of San Benito, and led him to the auto-da-fe, while he writhed in the midst of the consuming flames, calmly told him it was for his own good. We seem disposed to act the same part, and arrogating

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to ourselves these inquisitorial rights, wish to clothe every neutral power in such garments, and leading them to the flames, tell them we do so for their good. But will they believe us? If it be true, as my honorable colleague yesterday asserted, that necessity and right go hand in hand, then their necessity will be as strong as ours; and while it gives us the right to enforce, equally bestows upon them the right to resist, our assumed functions. And if it be true, as my honorable friend yesterday contended, that we have the right to interpolate a new principle in the public law, they have, at least, as strong a claim to do so.

And what, sir, must be the inevitable effect of all these various readings of the holy text, under which different and discordant rights are claimed? No one can doubt it must be war, horrid, interminable war, unless we are content to return to the fold from whence we shall be said to have strayed, to come again within the pale of civil society, and consent to be governed once more by the ancient rules which the necessities, not of one, but of all, produced, which the wisdom, not of one, but of all, digested, and for the preservation of which, unaltered by any, the peace of all requires the guarantee of each.

Mr. President, my colleague and myself differ very much in the idea we entertain respecting this right of instituting a blockade. He considers it as an independent, substantive right, "which may be exerted, (to use his own words,) *per se*." But is this so? Can it be so? The right of instituting blockades is not a substantive right, nor will its exercise be permitted *per se*. The right of instituting blockades is a mere incident, a consequence growing out of the exercise of the higher right of war, and can be exerted only by those placing themselves in a state of war.

If a nation has just cause of war, the question whether she will wage it or not, is one resting solely on its own discretion; and if, in the exercise of this discretion, it is found expedient to waive the right of waging war, then the moment it waives the right of waging war, it waives its right to the exercise of all the incidents, consequences, and accessorial rights of war. To urge the contrary, would be to argue that you had a right over the shadow, after having given up the substance. No, sir. Nations waive all the benefits when they avoid all the risks of war.

If, in the exercise of its discretion, a nation having just cause of war, sees fit to use its perfect right of waging war, the instant war exists, it requires no statute to give the right of blockade, and none can take it away. It is then derived from the high law which the wisdom and convenience of the whole world dictated, and which is consecrated by the holy hand of time. Let no audacious editor dare to pollute, by any blot, erasure, or interpolation, the sacred page. The common good of all mankind requires, that what the common wisdom of all dictated, and the common and long acquiescence of all has sanctioned, should neither be repealed nor abridged by any. If you choose to judge for yourselves, and blot one page, every nation will have a right to follow your example, and then indeed we shall behold the Prophet's scroll alluded to yesterday, written on the inside and out with nothing but lamentation and woe.

If, in the exercise of her discretion, having a just cause of war, a nation declares war, she thus immediately invests herself with the right of straitening her enemy by every means in her power. She may limit him exclusively to his own resources. She may diminish these as far as she can, and take care that they receive no augmentation from any other power: and all this she is allowed to do to attain the only legitimate end of war—a just and honorable peace. To secure the benefits of peace, the right of war is given, and war justifies the belligerents in employing all those means to accomplish this its great end.

Under this right of depriving him of his resources, is

derived the right of taking his property wheresoever it is found beyond the protection of a neutral state. Under this right of preventing any augmentation of these resources, is derived the right of capturing even neutral property when found upon the high seas, destined for the enemy's port, and being contraband of war.

Under these rights of capturing the property of the enemy, and the contraband property of neutrals, destined for his ports, is derived the right of visitation and search. For it would be vain to allow such rights, unless the only means by which they could be enforced were also conceded.

And, under this right of limiting the enemy to his own resources, is derived the right of investing his cities by land, and his ports and harbors by sea, and so cutting off his intercourse with the rest of the world.

The right of visitation and search, and the right of blockade, are three twin sisters, born of the same mother—war. They come into being at the same moment, with the existence of war; they continue during the same period while war continues; and, unlike the twins of the heathen mythology, they die at the same instant, when peace returns. Now, sir, if we are justified to exercise in peace one of these rights of war, we are justified in exercising the other; and if we claim the right of blockade in peace, we cannot deny to any nation the right of visitation and search in peace also. Is the Senate prepared to make this concession?

My honorable friend may say, perhaps, that the circumstance of the existence of piracy makes this case peculiar. He may contend, that this bill does not assert the right of blockade generally in times of peace, but only when piracy exists. This is certainly so: but are there not other pirates in the world besides those who infest the coast of Cuba? Have you not declared the slave trade piracy? and has not Great Britain, at your invitation, done the same? and is he not as much a pirate who deals in slaves, then, as he who takes a vessel off Cape Antonio?—and if the existence of piracy in Cuba justifies you in undertaking a blockade there, to suppress that piracy, can you deny to Britain, or any other nation, the right of visitation and search—to suppress the other piracy, the slave trade?

My honorable friend yesterday described, in language of true pathos, the horrid atrocities perpetrated by the monsters of Cuba. The picture was drawn by a master's hand, its colors were most vivid, and its similitude, I doubt not, most just. If, Mr. President, I dared to borrow his pencil for a moment, and to exhibit a more rapid sketch of the slave trade, I could present you a scene, over which philanthropy cannot but weep, at which the human heart sickens, and the bare representation of which rouses even calm justice, and makes her cry aloud for vengeance on the wrong-doer. Yes, sir, in the scale of moral beauty, the vilest wretch who haunts Cape Antonio, prowling for rapine, and delighting in blood, compared with the slave trader who traffics on the coast of Africa, is as Hyperion to a Satyr. He stands as a pure angel of light to the foulest demon of darkness—and every circumstance which can be urged to justify you in claiming the right of practising this measure of war in times of peace, in order to exterminate one pirate, may be urged "a fortiori," to justify every other nation in using the other measure of war in order to exterminate the other pirate.

Mr. President: for half a century we have been struggling, sincerely, I know, and I hope successfully, to establish the reputation of being a just people—to acquire the character of doing unto others what we would to be done to ourselves in similar circumstances. If we mean to preserve this character, we must take special care to act cautiously and consistently; for, if it is found in any one page of our history, that we are asserting for ourselves a privilege, which elsewhere we had denied to others, we forfeit this character of moral rectitude.

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Now, sir, (all other considerations apart,) is it wise to do so? Of all the nations of the civilized world, the United States is that where physical, detached from its moral strength, is least. It ever has been so, it ever must be so, while this Government continues. Unite the two, and at home you may defy the world in arms against you, while abroad your influence will be felt far beyond the limit to which your physical force can ever enable you to reach, by the means of your example, that is by your mere moral power. It is this at least, sir, that constitutes the material, out of which are formed the pillars of strength and beauty, the Jachin and the Boaz, standing before the vestibule of our temple. While these stand, your edifice is secure; it will continue as now, fair to behold, and safe to inhabit. But, once corrode this material; once impair this moral power; and we sink into decrepitude before we have yet attained maturity. Ought we not then to beware how we depart from the right-lined course our predecessors have pursued; how we assert principles in relation to foreign states, now, which they disavowed formerly? Our moral strength, like chastity, once lost, can never more be regained. Now, sir, let us look back into our own history for parallel cases; let us find what were the principles we asserted then, and inquire whether our practice now will accord with them. If they are at variance, we should shun them as we would every thing that tends to evil. There are many members of the Senate who will all recollect the incidents that occurred in the interval between the years 1793 and 1798, and what was the doctrine we then asserted and practised? It was during the period of the French Revolution, when England and France were belligerents, and the United States was the neutral. In consequence of this neutral position, our ports and harbors were filled with our own vessels, as well as with the vessels of both the belligerents and of other powers, not only with their merchant vessels, but with their fleets. What was the practice then? The moment one of the belligerents found vessels of the other in these ports, no matter whether it was a vessel of war or a merchantman, they blockaded them, in fact, although not in name. Every harbor and bay of the United States was subject to this blockade. What was our language then towards these belligerents? You are at war with each other, and may, on the high seas, exercise the rights of war; but you have no right to come here and shut our ports as you have done. We are at peace with each of you, and with all the world besides. You cannot, therefore, claim the right of blockading us in name, and hence, ought not to exert the power of blockading us in fact. Exercise your right of visitation and search on the high seas, and when you there find the property of your enemy, or the contraband property of neutrals, destined for your enemy, take it and apply it to your own use. We do not complain of this. But you must not place yourself at our very door, in order to examine our visitors and friends. By so doing, you harass our lawful trade; you annoy our fair commerce; and you subject us, although at peace, to most of the inconveniences we should feel from flagrant war.

This reasoning was just, and at last prevailed; both parties became satisfied of the rectitude of our claims, and yielded to them.

Now, Mr. President, if the actual presence of an enemy's fleet, in a neutral port, in time of open war, cannot justify blockade, can the presence of a piratical vessel, in any port, justify it? If the French, finding an English fleet in the Chesapeake, ought not to blockade them there, surely you, a neutral, finding a fleet of pirates in the neutral port of Matanzas, cannot blockade it, and so do that which one belligerent power would not be justified in doing towards another.

Mr. President, if we really wish to preserve our good name and moral strength, by acting towards others as we would they might act towards us, we ought not only

to refrain from doing any improper action, but even from doing that which, although permissible in itself, might yet fairly justify suspicion of our motives. Terrible would be the result, were we to act on a new principle, and yet leave a shadow of suspicion as to our motives for asserting it. Now, what are we about to do? Are we going to war with Spain, and so to acquire the right of blockade? No! we are going to blockade Spanish ports, and yet keep ourselves at peace. If we go to war with Spain, neutrals must submit to our blockades, and will do so willingly; for your war, by imposing new disabilities upon yourself, must, in fact, impart new advantages to neutrals, which will abundantly compensate them for any inconvenience your belligerent rights create. But if, in peace, you blockade, then, when by your blockade, you have created necessities, the supply of which must yield inordinate profits, you may raise the blockade, and, satisfying the wants which that produced, thus create for yourself great profit at the expense of others, and in which none will be allowed to participate with you. Suppose that, by the blockade of the Havana, you raise the price of flour to \$50 per barrel, and then raise your blockade, who will enjoy the benefit of this high price? The merchants of the neighboring ports in the United States. Thus, it will happen, then, that, by your own power, you create wants which you will not suffer others to prevent, and, when they have attained their highest point, you withdraw your measures of war, assume the attitude of peace, and so satisfy the necessity, and enjoy the profit your own act has occasioned. Neutral states will never submit to this, sir—they will not suffer you thus to blow hot and cold through the same lips; but will tell you, that, if you choose to war with Spain, do so; for, when, by war, you cut yourself off from all peaceful intercourse with her, the trade you give up becomes theirs, subject only to your belligerent rights. That they will thus be compensated for the inconvenience to which you subject them. But if, by the measures of war, you create wants which, under the garb of peace, you yourself may satisfy, they, and they only, feel the evils of the war, while you, and you only, can enjoy the benefits of peace. They will say to you, that this Centaur form, half war, half peace, is a deformed monster, which the friends of humanity must extirpate; and more than one Nestor will be found at this feast of the Lapithæ, ready and willing to essay the task.

Sir, it is a fraud on neutral rights, and it cannot be expected they will submit to it. If you go to war you enjoy its benefits, and take the consequences; but here you take the benefits to yourselves, and throw the hardships and annoyance on the innocent.

There is one more view of the subject to which I should wish to call the attention of the Senate, if it were not for the contempt with which my honorable colleague seems to consider every thing like detail. I cannot jump, however, at once, to my conclusions, as he does—I must go step by step, and satisfy myself of its operation every way, before I can pronounce that any measure is good. It is my misfortune, sir, and you must pardon me, if, accustomed as I have been, through my whole life, to arrive at conclusions only by the slow process of reasoning, I still adhere to my old course; and, having no pretension myself to intuition, I am distrustful of its apparent effects upon others. I do not pretend, sir, to argue by conclusions—I must plod on, and ask, at each step, not merely *quare*, but *quo modo*, also. In this instance I have done so, and I do not see my way clear. If we mean to institute blockades, I take it for granted we mean to enforce them when instituted. If so, we must presume, sir, that there will be cases of capture, and, of course, efforts at condemnation. But where is condemnation to be made? Will the committee tell me by what forum this question of condemnation will be tried, and what allegation they will prefer to attain it? If it had

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been a war measure, it would have been brought before a prize tribunal; but the bill has directed no prize tribunal to be instituted, and indeed, it would have been strange if it had. A prize without war would be as great an anomaly as a blockade in peace.

Suppose a vessel is brought before a prize court, however, and you say she is an enemy, or that she has conducted herself *quasi* enemy, because she has violated your blockade—yes, sir, your blockade, declared by statute—what will your prize judge first ask? Does war exist? The answer may be given in the language of the advocates of this bill themselves, war does not exist, but we are merely practising a measure of war in time of peace, and therefore ask you to help us out by your decree. But what must that decree be? It must be this, and this only: Prize, the fruit of war, is not to be won by the acts of peace; he who asks it must have risked his life, his liberty, and his property for its acquisition. You who have risked nothing, can take nothing, at least from this court, but must seek the boon which you ask elsewhere.

Suppose that you apply to some other than a prize tribunal, to some court of admiralty, or other forum, bound to administer the *jus gentium*, and there ask the confiscation of the property of a neutral captured on the high seas, for a breach of your statutory blockade—what will the judge there tell you? He will tell you, as he has often done, that municipal power is, in its very nature, territorial; it cannot reach beyond the bourne of the country where it is exerted, except over the persons or property of its own subjects, and that he cannot condemn the property of strangers for the breach of a law, in the enactment of which they had no share, and by the obligation of which they are not bound.

You must then be driven at last into a mere municipal tribunal, to some court of fisc, to ask the condemnation of the property of an alien, for some act done by one who never owed you obedience, and without your territory. Sir, those who ask this, are either not aware of its consequences, or cannot be serious in expecting their application to be granted.

Mr. President: I have chosen to exhibit the subject to you thus, through the medium of your own courts, rather than ask you to accompany me to London, or to St. Petersburg, to witness the scene that must take place there, when your representative undertakes to announce gravely to these sovereigns, that the Congress of the United States has passed an act confiscating their property, not *jure belli*, but for acts done under their authority, and out of your territory. This scene I leave to the imagination of those who may find mirth in it. To me it would give none.

How then, sir, I ask, is this blockade to be carried into effect? [Mr. BARNUM said, By force.] Sir, force is not right. It never did convey the property of one neutral into the possession of another, where the public law forbade it; and we know not yet on which side of the question the conclusion of this *ultima ratio* may apply.

The moment you announce this doctrine, you stand on the principle that force gives rights; and, when you interpolate it into the page of the public law that expressly denies it, you place yourself beyond the pale of civil society; the whole civilized world will rise against you, and declare you in a state of barbarism as well as blockade.

It is contended, sir, that, as we have a right, in peace, to lay embargoes, and to grant letters of reprisal, and as these are war measures, therefore, we have a right to institute a blockade, which is not more a war measure. I have never understood that embargoes and reprisals were war measures, and should like to be informed from what authority such assertions are derived. Embargo is no more a measure of war than the infliction of the sanction of any other municipal law is a measure of war.

Its operation is confined to your own territory, the same as in any other municipal law. A man commits a murder, and is hanged for it. This might as properly be called a measure of war as an embargo.

In themselves, they are measures of peace and tranquillity, a mere extension of the municipal powers of the state over those who ought to submit to such powers and no one ever considers them as otherwise. Look back to the time of Washington. He laid an embargo for 60 days, and afterwards extended it to 90 days. Did any one consider it as a measure of war or force? Embargo may be resorted to as a means of preparing ourselves for war, and so may the construction of fortifications. You are building forts on Old Point Comfort and Hurl Gate; yet no one considers these as measures of force or war, because they may be useful in war. Nor can we say more of embargoes. Thus much for embargoes, then.

As to letters of reprisal, they are always understood as measures of peace, designed to prevent war. I grant that they often lead to war; but, in themselves, they are as much measures of peace as an embargo, and their object always is certainly to prevent war.

But, as to blockade, the effect is very different. Letters of reprisal act on the guilty, and the guilty alone; and embargo acts on all alike, but it acts municipally on all within the territory; whereas, blockade acts beyond the territory, and acts directly upon the innocent only. It now only remains to inquire into the only precedent that has been cited in support of this proceeding. I allude to the blockade of Cadiz by the French. I say that France was perfectly justifiable in declaring that blockade; but, in the course she pursued, there is nothing to justify the present measure. War then existed, and, as a consequence of war, blockade was adopted by France. It is said that France declared she was not at war with Spain. Sir, is not this the language which every ally, under similar circumstances, is compelled to use? When a part of a nation attempts to separate itself from the rest, or to establish a new sovereignty, the effort, while it is in progress, is declared, by the ancient sovereign of the whole, to be rebellion, and force is used to bring back the rebellious member to its duty. This force, when resisted, makes war exist; and such a war is distinguished, not as public, but as civil war. All but the belligerents give it this denomination, and the revolutionary party calls it by the same name; the ancient sovereign, and its allies, however, will never acknowledge it to be war at all—they say it is insurrection and rebellion; and there never has been an instance known of any nation, endeavoring to regain a revolted portion of her state, that had severed itself from her, calling the rebellious parties enemies. No, they style them rebels and traitors, and the moment they catch them, hang them. Were they once to acknowledge them as enemies, they could not thus punish them, because they would be entitled to the privileges granted by civilized warfare, which forbid us so to punish an enemy, or to exert over him our municipal means. We, ourselves, stand a memorable example of this: in the year '76 we declared ourselves independent—Britain declared us to be rebels, and used all her power to reduce us again to the slavery from which we were doing our utmost to free ourselves. She put forth all her physical means, and had she not been fearful of a dreadful retaliation, all the prisoners she took would, no doubt, have suffered as rebels and traitors, and not as enemies. She never could acknowledge us to be enemies until she admitted us to be independent.

France, some years since, by one of her arrears, declared St. Domingo in a state of blockade, and announced her purpose of executing any who should presume to enter it in violation of this law. None ever doubted the perfect right of France so to rule her own possessions if she thought proper; and, until either France or the Uni-



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ted States should recognize the independence of this revolted colony, we were constrained to consider the ancient regime as still existing in St. Domingo, and to regard that island as a part of the French Empire, and, therefore, properly governed by its municipal decrees. None ever doubted either, that, to these rights of sovereignty, France might, at any time she thought proper, superadd the rights of war. And the whole question was, whether she had thought proper so to do. But France, to this hour, has never recognized the inhabitants of Hayti as her enemies, but merely as her revolted subjects.

An intestine commotion existed some few years since in England, which wanted nothing but numbers to magnify it into rebellion, and success to make it revolution. But Thistlewood died the death, not of an enemy, but of an insurgent.

In short, sir, wherever revolt against existing authority (legitimate or not) can be found, neither the ancient sovereigns or any of his allies, can ever consider this (so far as the quondam subject is concerned) to be war, and so to constitute the insurgents enemies. As to those, it is rebellion merely; but as to all others, it is civil war, the existence of which adds the admitted rights of war, to the prior rights of sovereignty claimed by one of the parties.

As regards the blockade of Cadiz, France could not consider Spain as at war with part of her own people. France came as her ally to lend her assistance, and as Spain never acknowledged she was at war, neither ought her ally so to do; but civil war existed, and hence there was no impropriety in blockading Cadiz. This case, then, cannot be cited as a precedent in justification of the present measure.

I think then, Mr. President, I have established the proposition, that, considering this contemplated blockade as a measure of peace, it is not justifiable, and, therefore, is one to which we have no right to resort. But supposing it were proper, will it be efficient? Under this bill, when you have met a pirate on the high seas, and chased him to his den, then a despatch is to be sent 1800 miles to the President of the United States, to know what to do, and before the messenger can possibly return, there will be no further occasion to blockade most probably, for the beast will have escaped from his place of refuge.

You would not then institute a blockade, I presume; for it ought to be considered satisfactory that those who could not prevent his ingress, have not opposed his regress, and if this be not satisfactory, it is just cause of war.

If, then, sir, you interpret this bill literally, it is nugatory; but no such interpretation will be given to it. If the Executive wish the adoption of this measure, you cannot believe that it is contemplated to launch such a mere *brutum fulmen* as the literal interpretation of its language would make it. No, sir, the means given, like all other means in this Government, will be adapted and made efficacious to the end, for the attainment of which the preamble or title announces they were to be employed. To make them so, however, the authority you delegate to him, must, of necessity, be sub-delegated to some other present on the spot. Possibly to some one or more of the 67 new officers you made a few days since, every one of whom will, ere long, become a commanding officer on that station, if the warfare is to be carried on in open boats, as it is suggested it must be. Now, sir, are you willing to place the rights of neutrals, and, consequently, the peace of this nation, in the hands of any such as these? Have you not already too many examples before you, examples furnished by the very document now in our hands, of the want of discretion in those of much higher grade, to confide any power, of this description, even upon them. But this will be the necessary effect of the bill, if it produces any; and, if it

produces none, it is useless, because inefficient. Mr. President, I have great respect for many of our naval officers; but allow me to say, that you are never safe when you leave the power of plunging us in war, with those whose interest and whose pride it will ever be to make war.

Sir, I began by stating that, although I was opposed to the means provided by this section of the bill, yet I was not opposed to the object of the bill. I am willing to go as far as any one in promoting the good end of putting down piracy in the West Indies, or any other part of the world. If the President wants ships for that purpose, I will build them, as many as he desires—if he wants money, I will give it till he cries enough; and, when this power and these means are entrusted to the Executive, I shall hold the Executive responsible for the proper application of them. The end proposed, is the suppression of piracy. All proper means I will grant; and if this end is not then effected, all the mischiefs that result must be laid at the door of him who misapplied the means. I have no doubt, sir, on this subject of fresh pursuit: a pirate is an outlaw, a beast of prey; wherever you find him, you have a right to pursue and slay him. For my part, I don't care whether the pursuit is fresh or not; I believe you may lawfully go any where he unlawfully is. You may take him, condemn him, and after you have condemned him, I would not pardon him. If, in this pursuit, you find any one affording him refuge, giving him aid or comfort, you are at liberty to attack him also; he is an accessory both before and after the fact, a *particeps criminis*, and must take the consequences of his guilt.

This, sir, I know very well, may lead to war; nay, very probably, is war; but it is open war with guilty pirates and their guilty associates only, and not war in disguise, waged against innocent neutrals, under the new doctrine of practising the measures of war in times of peace.

Although I am willing to employ all proper means to effect this desirable end of suppressing piracy, I can never consent to blot the bright escutcheon of the United States, or jeopardize its moral force, or fix a stain on the character, which, with so much care we have been endeavoring to establish for the last fifty years, by asserting the right of doing that which the public law forbids. Therefore, sir, I move to expunge the third section of the bill.

Mr. BARBOUR thought that he had acquitted himself of his share of duty in the exposition he had made yesterday, of the views of the committee. Other members of the committee were charged with the defence of their measures against any attack that might be made upon them. But as his friend and colleague had moved against the most efficient branch of the bill, and no gentleman had risen in reply to his argument, unprepared as he was, he could not consent to permit the question to be taken without attempting the vindication of a measure recommended by the committee, and which had provoked such severe animadversion from his colleague. His regret at the necessity of being obliged again to trespass, on the patience of the House, was heightened by the consideration, that it was his misfortune to have to encounter his colleague. Success rarely attends a divided household. As heretofore he had had the good fortune, on all subjects of consequence generally, to be aided by his former colleagues, he hoped that this would be the last case of division with his present. When, to these circumstances was added the consideration, that, on the subject before us, and all the results of prize questions and admiralty decisions, the principal objections urged by his friend, that he was laboring in his vocation, and perfectly familiar with all their technicalities, uniting the powers of a capacious mind with the lights of experience, the Senate would

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readily appreciate the unequal contest into which he was about to enter. Nothing but a consciousness of truth could sustain him in the conflict.

Mr. B. then proceeded to state the proposition contained in the third section of the bill.

The advocates of this section are bound, it is agreed, to make out, to the satisfaction of the Senate, 1st, That we have the power to adopt this measure of coercion, independently of war; and, 2dly, That the exercise of this power, at this time, is called for by the exigency of the occasion. In making out the first proposition, he had but little to add to his argument of yesterday. By what standard is the question of the existence of the power to be tested. My honorable friend contends that the laws of nations, as made known by jurists, was the only rule by which we could be governed. That to seek to add to, or in any way to interpolate on that code, was impious and fraught with incalculable mischief. Indeed! How has it happened, that, while all other sublunary things are imperfect, and, as it is hoped in a progressive state of improvement, that this system, most complicated, and involving the deepest interest, should have already arrived at perfection? A system whose principles originated without deliberation, and which were frequently dictated by the powerful to the weak. But, however the principles may now be consecrated by acquiescence, and by time, they must have had their origin. They were established by the same power common to us—the employment of means deemed proper or convenient by those who used them. But the present is a case not anticipated, or one which had not occurred. The laws are silent—there is no precedent on the files. The necessity as will be shown under the second proposition, exists for the employment of this mean to save the lives of our people from destruction. I ask, when did we forfeit the right of self-preservation? When was posterity disfranchised? At what epoch did the interdict issue—and by whom? No. This idolatrous reverence inculcated for the writers on international law, is at war with our reason. This servile deference for precedent is not adapted to the latitude of America. Our ancestors did not thus act when they gloriously rose above precedent and authority, and proclaimed our emancipation. Our own history of annual legislation shows the necessity of applying new rules to new and unprovided for incidents which all changeable time is continually producing. All that is incumbent on those who exercise power, is to show that inevitable necessity—for that necessity is inevitable, when self-preservation is at stake—demands it. You are never to exceed the limits which that necessity points out, but you may safely advance to them. On this branch of the discussion, I alluded yesterday to the precedent established by France in the blockade of Cadiz. My colleague contends that France was right, and I pray to inquire how he makes it out? He will not admit that Spain was at war, no, not even civil war, because, in that event, Spain would have been, by the modern usages, deprived of the right of murdering her rebellious subjects. France, he says, as the ally of Spain, stood on the same footing as Spain, and therefore she was not at war, and this is what France herself did expressly announce to the world, and yet, what is his conclusion? Why, that France had all the privileges of a belligerent.

Although the great burden of his previous argument was to show that a blockade could not exist independently of, but was a consequence of war, yet, when he now labors to ascertain France was not at war, yet she was justifiable in thus blockading Cadiz. This course of reasoning is to my mind, unintelligible, and a perfect contradiction. Whether this results from the fallacy of the gentleman's argument, or my incapacity to comprehend, I leave to the Senate. I shall content myself with these remarks on this branch of the subject, and

by referring to my remarks of yesterday—that we have just cause of war against Spain; that humanity requires we should obtain our end short of war, if practicable; that the intermediary steps of embargo and letters of marque have been resorted to by nations acting on the suggestions of this humane principle, and that blockade is defensible, on every ground as these, save the influence of precedent; and that we have just the same power to establish precedent as our ancestors, and when called to establish one, dictated by self-preservation, and limited to the exigency, that we stand justified, and shall be justified by the common consent of mankind. Now, sir, as to the necessity of exercising this power. For years, hundreds of our fellow-citizens have been murdered by a desperate association of brigands. They elude our just vengeance by taking refuge in the colonies of Spain. They are not only protected by the inhabitants of those Islands, but they are justified. Justified! The inhabitants share in their plunder! They hover around the ports, watch the departure of our vessels, and are enabled thereby to execute their fell purposes of robbery and murder. The whole Island of Cuba, for example, all conditions of its people, are leagued in this diabolical crime. Our agent there, Mr. Randall, most respectable we learn from others, and very intelligent, as we know from his correspondence, assures us that, unless we can make the people on land feel our power, by blockading their ports, and depriving them of this dreadful source of gain, and cutting off their intercourse with the world, that all external efforts to arrest the evil are in vain; that you must produce a moral revolution on land, through their interests. In confirmation of this, is the President's message of the 11th, who points out this measure as necessary to the suppression of piracy. What stronger evidence do you require of the necessity of exercising this power? I trust I have sustained both the propositions. I asserted the right and the necessity of exercising this power. Now, sir, what are the objections? That we shall be involved in war with the neutral powers, whose rights will be compromised by this measure? And it is triumphantly inquired, how is this measure to be enforced? The answer is, by a sufficient force to be placed at the point blockaded. Ah! what is to become of the prizes? Before what court of Admiralty is the prize to be brought, and by what text is the prize question to be decided? The answer is, that it is not contemplated to make any, but, by actual force, to arrive at our object, by excluding, not capturing, the vessels: though, at the same time, if necessary, I have little question if the same necessity existed to carry the principles of blockade to this extent, as to establish the limited blockade, which the committee look to, we should have the authority to do so. But the gentleman charges me with an utter contempt for detail. If by this, he means, that I respect the substance rather than the shadow, that I hold the difficulties of a prize question before an Admiralty court as insignificant, when compared with the fortunes and lives of my fellow-citizens, then I plead guilty to the charge. I do, indeed, feel but little interest "in the plumage of a dying bird." A measure is here presented, called for by the strongest of all earthly considerations, the salvation of our fellow-citizens. Shall we abandon them? Shall we give them up to the murderous assassin, who spares neither age nor sex? Shall these mighty mischiefs be held as unworthy our notice, because the ingenuity of counsel shall be able to suggest difficulties in one of the remote, indeed I may say impracticable results, what decision shall be pronounced on a prize question? My colleague says, and I do not question it, that he feels the same horror and detestation for this enormous mischief, as myself or any member of the committee; and that he is willing to go all proper lengths for its suppression; that he would visit the Island with our forces, and put not only all the pirates to death, but all who had given

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them aid or countenance. That he is willing to give ships and money, and then to hold the Executive responsible for their proper application. But this very Executive tells you that a blockade is necessary. At whose door will the responsibility rest, if you give not the power? But my colleague is willing to give what is necessary; but qualified with the condition that it must be proper in his estimation. Why talk of doing what is necessary, when you refuse that, without which, every thing will be ineffectual. External means will not answer. The people of the Islands must be made to feel. A blockade of their ports is indispensable—yet this you refuse. The lives of your people exposed to continued massacre—and yet this calamity is to be disregarded while we are fastidiously inquiring into the difficulty of a prize case. 'Tis the case of a physician, weeping over his dying patient, with the means of recovery in his hand; but who, from some fastidious delicacy, refuses the application, and to that delicacy offers him as a sacrifice. But this measure is to operate exclusively on foreigners, in the language of my friend. Directly the reverse. It acts only on the guilty. How are foreigners to be affected? Surely their interest is directly to be subserved. The extirpation of these demons is the common concern of mankind. The temporary exclusion of foreign ships from their den, surely can form no just cause of complaint. But the gentleman foretells disastrous consequences. From what source he draws his prophetic inspirations, I know not. I will content myself with a different prophecy: that such a measure in such a cause, will obtain the applause of mankind. Who can complain? Spain? We are doing her a favor. England? She is engaged at this moment in the common cause of extirpating the pirates. France, independently of her equal concern in their destruction, will scarcely, after her act of blockade at Cadiz, have the confidence to complain. If she should, let her be told, that, while she contends for the right of blockading a city, for the destruction of patriots, fighting for all that is dear to man, their altars, their fire-sides, their liberty, that surely they will not complain of an American blockade, directed against a horde of the most prostituted and ferocious of mankind, whose extirpation is the united wish of all mankind.

My colleague permits himself to find a parallel between this case and our own, during the war of revolutionary France, and urges that this assumption of ours may become a precedent which would shelter, in its retroaction, the enormous pretensions of those powers, when blockading our ports. But where are the circumstances of resemblance? On what ground did my colleague indulge the comparison? America—an independent Government, in a neutral position, performing her relative duties with good faith to the contending parties, surely has no trait of resemblance with desperate brigands, at war with all mankind—audaciously trampling under feet all laws, human and divine.

I heard, with equal surprise and regret, that, however he acquitted us of improper motives, that foreigners would suspect their purity. That we would blockade the Havana till the suffering of the inhabitants should carry flour to fifty dollars per barrel, when our blockade would be immediately lifted, and Boston or Norfolk would supply the demand. This is, indeed, a humiliating picture. Who could be wicked enough to indulge such an insinuation? After years of patient endurance and long-suffering; after our ships have been plundered and our citizens given up to torture and death; when, instead of rushing to vengeance, we have calmly addressed ourselves to the Spanish Government for redress, and have waited for her reply in vain; after our intelligent agent on the spot tells us this measure is indispensable; after the President of the United States has recommended its adoption, and the united wisdom of both branches of Congress shall have sanctioned it—

to suppose it possible that any foreign nation will have the audacity to carry our measures to a counting-house motive, I repeat again is a suggestion which I heard with surprise and regret. But the power is given in a way to render it futile. After these beasts of prey have been traced to their den, they are not instantly to be blockaded, but the President is to be advised of the circumstances before the blockade takes place, and when the fugitives will have escaped. Why does not my colleague employ the powers of his mind in amending? The truth is, that the check complained of was inserted in deference to the opinions of those who permit themselves to believe that they see danger in any measure of energy. It was to relieve ourselves from the fear suggested by my colleague, and which may be entertained by others, that our commanders are not trust-worthy. This, bear it in mind, is not our opinion. We have confidence in the prudence of our officers, or, if they violate their duty, we have authority here to punish and atone for their injuries. If, therefore, the clause is not sufficiently energetic, I will go as far as any one in amending it. But, in its present shape, is it inoperative? Is there nothing in the knowledge of these people, that, though justice is, for the time, suspended, it will assuredly, overtake them? On what other ground is the wickedness of individuals or nations prevented? The law exercises its silent influence to the utmost extremity of the nation. Not that the sword and the executioner are always present, but the conviction that they will finally smite the offender. So, also, will these people calculate; so, also, all nations must calculate. Believe me, then, the very existence of this power, lodged in the hands of the Executive, will have great influence, and may possibly supersede the necessity of its exercise. I have thus, without, as you know, a moment's preparation, endeavored to answer the objections of my colleague against the third section of the bill; and, as at present advised, I shall not trouble you again on this subject. The further discussion will be left to others. Believing, sir, that an awful responsibility hangs over us; that the lives of many of our fellow-citizens are involved in the result of our decision, I call for a record of my vote. In the day of urgency let every man stand on his own ground; if the measure be adopted, and ill consequences ensue, I am willing to meet the responsibility. If rejected, and thereby the blood of our people be spilled, let that blood be not laid at my door.

When the debate had progressed thus far, on motion, the further consideration of the bill was postponed to Monday next.

Mr. SMITH laid on the table the following, which he stated to the Senate he should propose as additional sections to the bill:

*"And be it further enacted,* That the collectors of the several ports of the United States be, and they are hereby, authorized to pay to the owner or owners of any merchant vessel of the United States, which shall clear out for, and bona fide be bound to, any Island in the West Indies, North and West of the Island of St. Thomas, or any port in the Gulf of Mexico, North of the state of Colombia, the sum of ——— dollars, for every gun of a calibre not less than four pounds, which may be mounted on board such vessel; provided, that the owner or owners shall have furnished, for each gun, at least thirty rounds of ammunition, ten boarding-pikes, and ten muskets, with at least thirty-six cartridges for each musket, and shall have furnished three men at least for each gun so mounted; and provided, further, that such payment shall only be made on the report of the Surveyor of the port being produced to the said Collector, that such armament is actually on board such vessel, and such number of men had been engaged for the voyage.

*"And be it further enacted,* That the President be,

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and he is hereby, authorized to purchase a steam boat of the largest size, and arm and man the same in such manner as he may deem proper; and also to cause to be built four barges or launches, each to mount a gun on the bow, of a calibre to carry a shot not less than six pounds, and capable of carrying thirty men."

Mr. LLOYD, of Massachusetts, also laid the following section on the table, which he should take a proper opportunity of moving to insert in the bill, viz:

"*And be it further enacted,* That, for every pirate, who shall be captured by the officers or crews, or any part of them, of vessels belonging to the United States, and brought into the United States, and who shall be convicted of the crime of piracy by any competent tribunal, the Secretary of the Treasury be, and he hereby is, authorized and required to pay, or cause to be paid, to the owners, officers, and crews of the vessels capturing such pirates, or to their agents, the sum of one hundred dollars, for each and every pirate captured and condemned as aforesaid, to be divided among the parties receiving the same in like manner as is provided in the fifth section of the act for the distribution of property captured from pirates; and that the sum of ten thousand dollars, from any money in the Treasury not otherwise appropriated, be, and the same is hereby, appropriated for the object aforesaid."

Both of these sections were ordered to be printed; and then the Senate adjourned.

#### HOUSE OF REPRESENTATIVES—SAME DAY.

##### CHESAPEAKE AND DELAWARE CANAL.

Mr. TRIMBLE, of Kentucky, rose, to say that the House would not have the pleasure of hearing the gentleman from Louisiana, (Mr. LIVINGSTON,) as was expected when the adjournment was moved on yesterday. That gentleman wishes it to be known that the state of his health prevents him from being in his seat this morning, and, it is said, that he does not desire the vote upon the bill to be delayed upon his account. As to himself, Mr. T. had not intended, nor did he now propose, to engage in the debate upon the bill, believing that it would be better to leave it entirely in the hands of those who were best informed upon the subject, and, therefore, better qualified to explain its merits to the House. But, as some of the friends of the measure (alarmed, probably, at the small majority in its favor, on the last vote,) were of opinion that a few words in its favor would be useful, he was willing to say as much as would show his good will and best wishes for its success. He desired it to be understood, however, that he would not enter into a formal argument, nor attempt any thing farther than a few hasty suggestions.

The power to make roads and canals, appeared to be at last conceded. The constitutional question had been barely mooted, to mark the old line of partition and preserve the corner trees. Public opinion was embodying itself in favor of roads and canals, and during the last year, had made so many demonstrations in favor of internal improvements, that Congress might consider itself called upon by the nation to begin the work in good earnest. It is now agreed on all sides, that, by and by, we must make national roads and canals; but some members want us to wait until we can commence the system, as if there was some magic in the word *system*, without which nothing could be done. Mr. T. considered this canal as a part of the system of internal navigation, and could see no reason why the Treasury should not lend its assistance in the undertaking. He could but notice that the gentleman from South Carolina (Mr. McDUFFIE,) made it a special exception, insisting, at the same time, upon his protest against the Cumberland road, and all other internal improvements, until plans and estimates are procured for the whole system; and he supposes the system may require disbursements of

from ten to fifty millions to complete it. Mr. T. saw no reason to justify the proposed delay, and urged that such arguments ought to have no weight with the House. This canal, he said, was equal, in point of public utility, to any other of its length in the country, and, in his opinion, was much more important, as a national work, than any of the canals connected with interior navigation coastwise. It was a link in the chain of interior intercourse, that would afford facilities for the trade of all the United States. In fact, it was of the highest utility for commercial purposes, and not less so for the purposes of national defence. In peace or war it would be equally useful to the country—and it was almost impossible to imagine a broad scheme of national defence without including this canal in it. The effect, in times of war, of various outlets to the sea, was too obvious to require elucidation; and the rapidity with which men and means could be transported through it, from place to place, and concentrated for active operations, would be a first rate advantage in all army operations, as well as naval defences.

But, to return to the system. We want, said he, three things to begin it; 1st, Surveys, plans, and estimates; 2d, Money; 3d, Civil engineers. We can easily get plans and raise money, but civil engineers do not spring up spontaneously, and we cannot make a fair start with the system without them. Surely, no one would be willing to hand over ten or fifteen millions of dollars, to be disbursed by incompetent engineers and raw agents, ignorant of the business about to be undertaken, and from whom nothing could be expected but the most ruinous and wasteful prodigality. Before we begin the system, we must create a corps of scientific engineers—men of practical knowledge and experience—men of competent skill to manage and direct the application of public money to the best advantage, and with all possible frugality. If he was asked, how such a corps of engineers could be formed? He would reply, form them as you do military engineers. Make a school of practice for them. Take the army, for example. Why are military schools established? Why do you want a school for practice for the artillery? Why is a school for naval tactics applied for? What are the arguments in favor of those institutions? To teach the art of war; to create and preserve naval and military skill; to form a corps of scientific officers, who, in the event of war, shall lead our armies and command our navies. None of us would consent, if we could help it, to put the honor of the country and the lives of our fellow-citizens under the command of incompetent officers. But the art of making roads, canals, and bridges, is as useful, and as much wanted, in time of peace, as military science and tactics in time of war; and there is as much practical good sense in forming a corps of civil engineers as any other corps. A large corps will be wanted to begin the system of national works; and the canal in question, and the proposed extension of the Cumberland road, will be excellent *schools of practice* to form such a corps. It would be a service in which the science and the practical knowledge of making roads and canals may be acquired and diffused throughout the states. If we have such a corps in the country, they ought to be kept in employment. If we have none, or but a few of them, let us hasten to form an efficient corps, and have them ready when the system is prepared. Their practical knowledge may save us millions in executing the great scheme in contemplation. The public debt has been referred to in argument. It is to be paid up, they say, in ten years; and if so, the sinking fund of ten millions per annum will then be liberated from its pledge, and the Government may thereafter disburse ten millions, annually, upon national objects. But when the debt is liquidated, the stockholders will want to invest their funds in some profitable scheme; and what so likely to attract their attention as roads and canals? The invest-

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ment would be perpetual, and that would recommend it to men of large capitals. But would they venture to place their funds in the hands of incompetent, unskilful engineers? Would not the general ardor in favor of internal improvements be severely checked for want of proper skill and practical experience? In the run of ten years there is to be eighty-millions thrown into the market to seek such employment; and, at the end of those years, the Treasury will be able to disburse ten millions per annum. The future prospect as to means, then, is as flattering as the nation could desire; but, when the time comes, we shall have no engineers to use the money. These and similar reasons might be urged, he said, to show the policy of passing the bill, even if there was no other utility in the measure. He congratulated the agricultural interests of the country upon this happy conjuncture of affairs, by which they were likely to profit in a high degree, and hoped the House would avail itself of every suitable occasion to form a class of civil engineers, without whom nothing useful could be done.

It would be difficult for him, he said, to say more on the subject, without drawing himself into a full explanation of his views upon the policy of the system referred to; but, as that was not his intention in rising, he would suppress such other considerations as had weight with him, not doubting that the same ideas had occurred to others, and would have their due influence.

Being on his feet, he would say a word to the gentleman from South Carolina, on his left, (Mr. HAMILTON,) who, in his speech upon this bill, had turned the edge of his argument against the Cumberland Road. He put the question to the House—where shall we begin the system? And then answered it by saying, that the work first done ought to be at the place where it is most wanted; and then brought himself to the conclusion that roads and canals on the Eastern side of the Alleghany mountain would be more useful than on the West. The people of the West were left to understand that enough had been done for them, and the gentleman had more than intimated his serious misgivings that members from the West would refuse an appropriation to aid in making a canal on the Catawba.

He expresses great respect for the West—kind words, but no money—no aid for the road. I have nothing in reply, said Mr. T. but will remind him of a Fable: Prometheus, (if that was the name of the old heathen,) sent Jupiter a present of two slaughtered bullocks, sewed up in their hides, but the crafty old knave had put all the flesh in one hide, and the bones in the other, and offered Jupiter his choice. The only difference in the two cases was, that the gentleman offered the Western people nothing but the bones, and no choice whatever. As to the Serbonian bog, Mr. T. had never seen it laid down on any of the maps, nor was he sure that it belonged to either Ancient or Modern Geography—perhaps it existed only in the fancy of the poets—but, if it was a real noun-substantive, he was confident, from the mere sound of the name, that it must be impassable for man or beast, and if it lay any where on the stage road from Washington to Charleston, he was sure that a good stone road ought to be made over it, and he, for one, would vote an appropriation for that object, in the full hope that the mail would be expedited by the measure.

Mr. HAMILTON said, that he was really sorry that the gentleman, so happily witty himself, should not, at least, in the present case, be the occasion of wit in others. But the gentleman seemed this morning to be abounding in fable, and without meaning to impeach his veracity, (for he would put it down to the account of mistake, a want of recollection,) he had been not a little fabulous in stating his argument in relation to the Cumberland Road: for it would be remembered by many who heard him, that he had declared, that when

the surveys were completed for the whole road, he would vote for it in connection with the great Southern mail route. He would submit to the House the justice with which the gentleman had stated his argument in relation to this subject.

Mr. GARRISON, of New Jersey, observed, that, as he was peculiarly situated with respect to the present bill,\* he thought it was incumbent upon him to offer some of the reasons which governed his vote respecting it. He was as friendly to a general system of internal improvement as any gentleman in the House could be; yet there were some principles which applied to the present case that would induce him to oppose the bill. He never could consent to appropriate the national resources for any object of improvement, however important or valuable, which could as well be accomplished without it. This bill proposes, that the Government shall subscribe for 1,500 shares of the stock of the Delaware and Chesapeake Canal Company. And the reasons offered in its favor, when stripped of every ornament of rhetoric, by which they have been adorned, amount to this: that the states of Pennsylvania, Delaware, and Maryland, united, are unable to cut a canal across an isthmus fourteen miles in length, one third part of which runs through marsh and bogs. He must confess that the arguments had entirely failed in convincing him that such was indeed the fact. The gentleman from Delaware, (Mr. M'LANE,) says, that on the subject of internal improvements in general, the people are far in advance of Congress. It might be so; yet, he should suppose, that, if such was the fact, the legislatures of Pennsylvania, Delaware, and Maryland, might have finished the canal before this day. An honorable gentleman from Pennsylvania, (Mr. BRACK,) informs us that great exertions had been made, in Philadelphia, to obtain subscriptions to this object; and expressed a very decided opinion, that, if Congress does not aid the undertaking, it cannot proceed at all; and, by way of accounting for the fact, that no further subscriptions are to be hoped for in that city, he tells us, that its citizens now hold unproductive stock, to the amount of \$4,000,000. By a late estimate of the total amount of real and personal property in the city of Philadelphia, it appears that that amount is \$158,000,000, and when he looked at this amount, he could not subscribe to the opinion, that the holding of four millions of stock, that was, as yet, unproductive, was sufficient to prevent further subscriptions to this canal. The argument did not appear to him at all conclusive; and he felt persuaded that, should the Government refuse the present application, the stock in the canal would nevertheless be taken, and the design proceed with success.

The gentleman from Vermont, (Mr. MALDEN,) had told the House that there would certainly be a canal from the Raritan to the Delaware; and he seemed to take such a canal for granted, in tracing the line of internal communication of which he had spoken. But Mr. G. did not feel quite so certain as that gentleman seemed to be, that such a canal would go into effect; and he doubted greatly whether the gentleman's expectations would not be disappointed. But, if otherwise, and if there were so much redundant capital in the country as to induce capitalists to give a bonus of \$100,000 for the privilege of cutting such a canal as that between the Raritan and Delaware, was it credible that a canal so much more important, and likely to be so much more profitable, will be suffered to fall through for want of pecuniary means to carry it on. For his own part, he could not believe any such thing. But, if the Legislature of New Jersey gets one hundred thousand dollars for cutting the canal between the Raritan and the Delaware, what ought the Legislatures of Delaware and Maryland to get for the canal now proposed, while the one is only fourteen miles long and the other twenty four? The present was the first bill which had presented itself

\* The district from which Mr. G. comes, is in the immediate vicinity of the canal.



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under that construction of the Constitution which was adopted at the last session of Congress. The first, at least, in which that construction had been clearly and distinctly recognized; for the bill passed for removing the obstructions in the Mississippi and the Ohio rivers was of a compound character. Its object was not exclusively to facilitate commerce, but to preserve the lives and property of our citizens. He had another objection to the bill: In carrying into effect the system of internal improvement, he thought it was wise, nay, indispensable, for the House to legislate on correct data. In this case the Board of Engineers, who had been organized under the act of last session, called the survey bill, had not made any report or presented to the House any opinion respecting the general route of this canal, or any of its details. In his judgment, Congress ought never to appropriate unless upon estimates first submitted to them by judicious and experienced persons. Besides, he did not consider the finances of the country in such a state as to warrant this appropriation at the present time. There was, indeed, a sum of money in the Treasury; but the officer at the head of that Department had informed the House that every part of it was already under appropriation, and several acts had already been passed the present session, granting different sums to the amount of at least one hundred and fifteen thousand dollars. He could, therefore, see nothing in the state of the finances which was calculated to induce any gentleman to vote for the present bill. Mr. G. observed, in conclusion, that he lived nearly opposite to one of the points where the canal was to pass, and he was himself a friend to the canal; but he did not conceive that the General Government was called upon to engage in the undertaking, as it would, in his opinion, proceed, and be completed, by individual enterprise.

Mr. MALLARY, of Vermont, said he wished to make a few remarks, in addition to those submitted yesterday. He referred to what he then observed on the probable completion of the great line of water communication through the country. The Jersey Canal was provided for, and its execution might be considered as certain. It appeared, that, after a great expenditure had been made, the Delaware Canal would be abandoned unless the aid of Government was afforded. This work alone was wanted to complete the greatest internal communication to be found in any country. It would complete the internal navigation between the East and South. You may pass from Canada through Lake Champlain—the Northern Canal—the Hudson—Jersey Canal—the Delaware Bay—the Delaware Canal—Chesapeake Bay and waters to Norfolk, Virginia, and thence through the Dismal Swamp Canal to North Carolina. You may soon also pass from the great lakes through the Erie Canal to the Hudson, to the South. The effects must be incalculable. The interests of the North and South, of the East and West, are every day becoming more and more united and consolidated. By no effort of Government can they be more promoted, than by giving the assistance provided for by the bill now under consideration. Permit me to refer to the great manufacturing interests of the North and East. I do not, said Mr. M. intend to revive the discussion on the tariff. I must, however, be allowed to say that its effects are already most conclusively proving the wisdom of the measure. New life and vigor were already communicated to the industry of the country. The accomplishment of the object before us, must have the happiest tendency. With a view to illustrate the importance of this canal communication to the manufacturing interests of this nation alone, he would consider the article of cotton alone. This is one of the greatest materials on which northern industry and capital are employed. A safe and convenient transportation from the South, was of the utmost importance. This transportation can be at once interrupted, and almost wholly prevented by any foreign power, which can bring

into service a greater naval force than our own. The moment such an interruption takes place, the most disastrous consequences must follow. An interruption of regular supplies for a month would produce a greater sacrifice to the manufacturing community, than double the cost of the Delaware Canal. Whatever, therefore, promotes internal communication, adds to the great interest of the nation, and no part will enjoy its advantages to a greater degree than the North and East. As a further evidence of its value, let me refer to a recent important fact. The manufacturer of the North, already sees his fabrics passing over this line of communication as fast as completed, over the Cumberland Road, and dispersed through the Western country. They have already found a market at Santa Fe, in the most distant Spanish provinces.

Again, said Mr. M. let me illustrate the interest of the North in this question. That section is now beginning to be most successfully and deeply engaged in the manufacture of iron. It is second to no production of art to be used in peace or war. The completion of the great object before us, renders the distribution of it at all times safe and economical. Should our coasting trade be interrupted, this great and essential article will be distributed without any hazard. The armories and navy yards of the country would not be interrupted a moment; you could, without the least inconvenience, supply the navy yard at Norfolk, Virginia, with iron from Lake Champlain.

Allow me, sir, said Mr. M. to observe, that the Delaware Canal has always been the favorite object of the nation. More than ten years ago the subject was brought before Congress. It was viewed with a favorable eye. It would have succeeded, had not the delegation of New Jersey been desirous of adding, also, the canal through that state. The original bill was loaded too heavily, and finally sunk. It appeared surprising, that gentlemen now, from that state, should be desirous of defeating the present measure, especially as the Jersey Canal was provided for without the aid of Congress. Nothing could aid the interests of New Jersey, and the value of her contemplated canal, like the success of the bill before us. He hoped opposition from that and every other quarter might prove totally unsuccessful.

Believing that every portion of the country was deeply interested in completing the grand internal communication which had been described, and that the last link in the chain to be made was the Delaware Canal, he should most cheerfully give the proposed measure his cordial vote.

Mr. SHARPE, of New York, said, that, as he was one of the Committee of Roads and Canals who had reported the bill, he thought it was his duty to state some of the reasons which had influenced him in giving his consent to the measure.

The committee had had many different projects before them, some of which were on a very large scale. There were many of these which he approved, but which he should be opposed to undertaking at the present time—he considered the present object as standing on a different footing. The work was already commenced; the company did not ask the Government to embark in this undertaking as a benefit to them; nor did it ask that any sum of money should be appropriated to the object at all. But, as the Legislatures of Pennsylvania, Delaware, and Maryland, had subscribed in their character as states, and as individual subscriptions had likewise been obtained to a total amount of \$700,000, and nothing more could be obtained, it merely asked that the General Government should do what individuals and states had already done to further a great and useful public object. He did not see the least necessity for waiting for further plans or estimates; the plan had been laid and approved. The estimates had all been made; contracts entered into; and one whole year of labor actually expended. If

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suitably encouraged, he did not doubt that the whole might be completed in one or two years. He was as ready to vote to subscribe three hundred thousand dollars to this object, as he had been to subscribe a much larger amount to the stock of the United States' Bank. In that instance Congress subscribed very largely, and he saw no reason why they should not subscribe with equal willingness in the present case. It would countenance the stock in market; he did not doubt it would occasion the stock to rise in price, and Government might eventually have it in their power to sell out again, and perhaps with advantage. In the mean while, they would have been aiding a design eminently calculated to advance the general welfare. The gentleman from New Jersey says that a company in that state has offered a large sum for the privilege of cutting a canal from the Delaware to the Raritan. If that company shall come to this House and shew a subscription list of \$700,000, and shall ask it to subscribe three hundred thousand more, he, for one, would be in favor of complying with the request. He was pleased to see that the enterprising state of Ohio was disposed to do something for itself, and if the Legislature of that state should do what the Legislatures of Maryland, Pennsylvania, and Delaware, did for the present canal, and should then come and ask aid of this House, he would be in favor of aiding Ohio also.

He would say the same with respect to Kentucky; but the mode in which he was in favor of aiding them was not by donations of money, but by subscribing for stock, which might afterwards be given up to those states. Mr. S. said that he thought it might be necessary to explain what to some might appear inconsistency in him. That, although he had voted against the Cumberland road, he should yet be in favor of the present bill. But what was the present state of that road, after all the money which gentlemen had laid out upon it? It was fast going to ruin, though the Government had appropriated nearly two millions of dollars to have the road made. The inhabitants who lived in its immediate vicinity would not do so much as lift a shovel to preserve the road that passed their own doors. They had the use of it without toll, yet they refused so much as to keep it in repair. The bill to extend that road appropriated \$150,000 in the state of Ohio. When the Government went into a system on the subject of roads, he thought the aid they granted should be distributed to all the states. Ohio, he believed, was as able to construct a road as either of the Eastern states, and why should the Government be in advance \$150,000 for that state. Had the great and important state which he had the honor, in part, to represent, ever received an acre of the public lands, or a dollar of the public money, to promote an object of this kind within her limits? Not one.

Mr. ALLEN, of Massachusetts, observed, that no gentleman could be more decided in his conviction, that the Constitution granted no power to Congress to enter into a system of internal improvements than he was. He came to Congress with no opinions on this subject. At an early period after he became a member of this House, that subject had undergone a very full discussion: he gave his undivided attention to the arguments on both sides, and he formed, at that time, an opinion which he had never since seen any reason to change. He was entirely satisfied that Congress had no right to take the common fund and appropriate it to any local object. He would not now enter into the reasons of this opinion, but would say, that he was as much opposed to that system, on principles of policy, as on the principles of the Constitution. He apprehended that many and great mischiefs would flow out of any attempt, on the part of the General Government, to carry such a system into effect. It would produce collision between the feelings and interests of different sections of the country. It would

produce a scrambling on this floor for the benefits which were to be dispensed, and, instead of strengthening the Union, he was greatly apprehensive that its practical tendency would be to weaken, if not to destroy it. Whatever was not just in itself, would always produce dissatisfaction and uneasiness—and he thought it always unjust to take the money of one part of the country and give it to another. The Constitution had made an arrangement proportioning direct taxes to population; and it had declared that all duties and imposts should be uniform throughout the states. But, if Congress was permitted to take the money, thus equally collected from all, and appropriate it, unequally, for the benefit of a few, what was this but to *get round* the Constitution? Why might they not as well be allowed to tax the country unequally, at once, as to tax the whole equally, and then give the result to one part? He had another objection to the bill: if Government is to patronize objects of this description, the practical effect will be to weaken and discourage individual enterprise; and so, in the end, to retard rather than advance the real prosperity of the country. The spirit of individual enterprise he considered as of more importance to a state than almost any thing it could possess. A system of internal improvement could not be animated by any other principle. Congress might, indeed, form an enormous man of clay, but there was none who would reach to the sun, and light into life the inert mass.

Yet, while he held these opinions, he conceived that, as a matter of revenue and calculation, it was competent for Congress to invest the public resources in any fund which they might deem the most advantageous. He believed, by the constitution, they had a right to do so; and, though he held that it would not be lawful to pass the present bill for the purpose of aiding this or any other canal, yet they might pass it as a measure calculated to benefit the finances of the country, and so promote the common defence and general welfare. In this view of the subject, he thought he could see his way clear to give his vote for the bill. He considered the case as a peculiar one, and resting on very different principles from the bill to continue the Cumberland road. Of all the exceptionable things which the House had ever done, he thought there was none more so than appropriating the public money for what, by a misnomer, had been called a continuation of the Cumberland road. It was, in truth, no such continuation—it was a new road in the state of Ohio. It had, indeed, been christened the Cumberland road, and perhaps there might be policy in calling it so; but it was no more the Cumberland road than if it had been made in Massachusetts. Mr. A. concluded by observing, that he would not longer detain the House, and should not have risen at all, but to explain the reasons why, with his views of the constitution, he should, nevertheless, vote for the present bill.

Mr. LITTLE, of Maryland, rose to state, in a few words, the reasons which would influence his vote. He owed it to himself to do so. On the constitutional powers of Congress to legislate on these subjects, he had repeatedly expressed his opinion in this House. This bill presents itself in a new shape, the policy of which he doubted, from the past experience in the state, part of which he had the honor to represent. At a very early day, the state of Maryland subscribed largely towards rendering navigable the Potomac river. This kind of co-partnership was entered into with individuals to complete the work, all resulting in little, if any benefit. If we are in a national character to enter upon the work of such improvements, let them be done by the Government exclusively; let the general interest be the ruling principle; it is admitted that the Chesapeake and Delaware canal bears that character, so does the great Cumberland Road, so much spoken of. Did the Government enter into co-partnership with states or individuals to complete that great work as far as the Ohio? We have

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voted a continuation of it without such a co-operation, but a few days ago. It is national; no compensation for the use of it is asked, more than to preserve and keep it in repair. So let it be with the work this bill contemplates the completion of. I may be mistaken in the views I have taken of this subject, and briefly stated.—They govern me in giving my vote reluctantly against the passage of the bill.

Mr. MARVIN, of New York, observed that he was in favor of a system of internal improvements; but he entertained no constitutional doubt or scruple respecting it, and even if he did, should consider it no objection to the present bill. Yet, he professed himself not prepared to vote for it, and would briefly assign his reasons. He thought, in the first place, that this was not the proper time to go into such an appropriation. He had no reference to this particular year, nor to the state of the public finances; but, Congress having passed a bill preparatory to a general system, he thought they ought to adhere to the course they themselves had adopted, and ought not to act upon the system, until they heard what those persons had to say whom they had employed to collect information, and present surveys and estimates to the House. The Secretary of War indeed, in his report to the House this session on this general subject, had told the House that the engineers, under his direction, had made no examination of the route of this canal, because the canal was actually begun; but he took it for granted, if that intelligent officer of Government had known beforehand that Congress would now be called upon to subscribe \$300,000, in aid of the object, he would doubtless have caused some investigation to be made. From a little book which would seem very opportunely to have been put into the hands of gentlemen, he learned that several engineers had been called on to examine the route. Why then had the House no official information from those gentlemen, as to the plan of the canal; the advantages possessed by it, &c. Is the plan a proper one to promote such objects as belong to the General Government? This was a point essential to be known. If Congress passes the present bill without any such investigation; without any official information of its own, they will do it because they have been applied to, and because, from the representations of the applicants, Congress is inclined to believe that the object is one of public utility. This lays the foundation for innumerable applications from all associations of persons, who shew, or think they can shew, that they are engaged in an undertaking of public utility. The government, on the contrary, ought to let all corporations know, that, in granting money, it will go, not on their representations, but on official information, obtained by its own authority. This will prevent endless trouble, and give the government certain grounds to go upon. The chairman of the committee who introduced this bill, had informed the House that the three states concerned in the canal, had early passed laws incorporating the present Company. This was true; but the law passed by the state of Delaware, contemplated raising only \$500,000, which, it was then thought, would be sufficient to complete the canal. No money was given by the state of Delaware; but 2,500 shares were subscribed for. A great many individual subscriptions were obtained, but a failure of payments occurred respecting so many of these, that only \$100,000 was raised, and the design fell through. In 1823, the undertaking was again revived; but no new act of incorporation took place. All the subsequent acts of the Legislatures had reference to the old act. Mr. M. insisted that Congress ought to know how far those who subscribed, when the design was first set on foot, had complied with their engagements. The little book, indeed, to which he had before referred, says, that, in 1823, the Company required the former subscribers to pay five dollars per share, (out of two hundred dollars, which was the price

of one share,) in order that they might ascertain how many of those subscribers intended to continue their subscriptions. But Congress had no official information of this. The book says, that of the "available funds," (a phrase from which it would seem that they too had some notion of funds which were unavailable,) 700,000 dollars had been raised. Of this, \$100,000 was obtained on the old subscriptions. Mr. M. wished to know whether, according to the present plan, all those old subscribers were considered as members of the company, and had a right to act as such? and whether the necessary means had been taken to forfeit their shares where payment had not been made? Mr. M. said that he would have Congress observe the same prudence as the Legislature of Maryland had done. In the original act, that Legislature made it a condition on subscribing, that the Legislatures of the other two states should subscribe in proportion. The Legislatures of Pennsylvania and Delaware did not comply, and that part of the act was afterwards repealed. [Here Mr. M. quoted the act.] From this act, it appears that the Treasurer of Maryland was not to subscribe for that state, till 225,000 dollars had been subscribed elsewhere. This covered the whole amount then supposed necessary to carry the canal into effect. Mr. M. said, he would make the present act conditional also. Congress is now told that \$1,350,000 is wanted. \$700,000 had been subscribed. If Congress subscribes \$300,000 it will make up the million only.—Who is to subscribe the rest?

He would add a condition to the bill that no money shall be paid on the subscription of the General Government, till the \$350,000 had been subscribed by others. And he would also insert a condition, that the Government shall not pay in any greater proportion than other subscribers, and that all shares subscribed, but not paid for, should be forfeited; and further, that the control of the Government in the concerns of the Company should be in proportion to the stock it holds.

Mr. M. observed, in conclusion, that he had no doubts of the utility of the Canal, or of the authority of Congress to aid it; but he objected to the bill, as not founded on proper data, and not containing the requisite checks.

Mr. STORRS said that he was reluctant to say any thing on the subject before the House, yet it appeared to him that one class of those who objected to the measure, had founded their opinion on a mistaken assumption of its interference with what has been called the general system. It seems to have been considered by some as a premature commencement of that expected plan of national improvement. Mr. S. said that, in his judgment, the proposed Canal between the Chesapeake and Delaware bays might be considered as the completion of the first and most important work which could be embraced in any such system. A company has been already incorporated by the state of New Jersey, and about to commence its operations, for opening a canal navigation from the Delaware to the harbor of New York.—Simultaneously with this work, will be the completion of the Delaware canal navigation. When these works are finished, a secure inland navigation is presented from Taunton, in Massachusetts, to North Carolina, and yet this bill is objected to because it is supposed to be a contribution for a local or partial purpose. Sir, said Mr. S., I beg of gentlemen to extend their views, and consider the subject on a larger and more expanded scale.—No less than ten states are located on, or intersected by, this great line of internal water communication. These, too, are the Atlantic states—the holders of your commercial capital, and nearly the whole of your navigation.—The coasting trade is chiefly, nay, almost entirely, indebted for its activity and prosperity, to the natural advantages and enterprise of these states. It is their great interest which is most deeply concerned in the measure before us. Its magnitude deserves our serious reflection

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while we are considering this subject. The tonnage employed in our coasting trade is equal, within a small fraction, to the whole tonnage of the United States employed in the foreign trade. It undoubtedly exceeds it in the amount of capital invested for carrying it on.—I have also been assured by the best informed commercial men, that it yields a much greater clear income and profit on the amount of capital employed than the navigation engaged in the foreign trade. There can be no doubt but the prosperity and wealth of the city of New York is as much, if not more, promoted by this branch of our navigation than any other. It is this interest which is greatly concerned in the subject before us, as well as the general trade between the Atlantic states. It can hardly be necessary to ask the attention of the House to the comparatively increased security of this trade when carried on through this internal communication, protected as it must be, in a great degree, from the risks of the coast navigation. It is not too much to say, that the insurance offices of New York, Philadelphia, and Baltimore, would, in the course of a few years, save, from marine losses, an amount equal to the whole subscription proposed by this bill. It is worthy of remark, too, that on this line of water communication, are situated three of your principal cities; that its extent from Massachusetts to North Carolina is nearly 800 miles. Every western road must terminate on this line; every western canal must be emptied into it. The canals of New York, from the North and West, now unite with it. The Pennsylvania canals are but branches of the same navigation, and the projected canals from the Chesapeake to the Ohio, if ever completed, must contribute to the trade and swell the navigation of the same line. It is not an exaggeration to say, (and gentlemen will find it so if they will examine) that, when the canal navigation through the states of Delaware and New Jersey is finished, the United States are possessed of a continuous internal navigation, which washes an inland shore of from 5 to 7000 miles. Can any country on the globe present such a combination of the most productive natural advantages as are here offered to us? Do we view this in its true light, or justly treat it, when we say that this is the commencement of any system, or that it is local or partial legislation, and not national? Shall we defeat or retard the development of our national wealth and resources by refusing to such an object as this a subscription of \$300,000? If any general system is ever to be, or can be, produced, or begun, (and I am not yet prepared to say that I wish to see it, or that good policy requires it) this communication along the Atlantic must be the first work. When this bill has passed, it may be considered as finished. Unless it should be found practicable to unite Buzzard's Bay with Massachusetts Bay; (which I have understood to be impracticable for any useful purpose of navigation, through that channel) but little, if any thing, will remain to be done on this line, except its extension into the inland bays along the coast of the Carolinas. A very small appropriation for that purpose can ever be necessary, if the states there concerned or private enterprise do not accomplish it before us. I am satisfied, however, said Mr. S. both as to that and all other proposed national improvements; that, if we wait till we are prepared, or obtain a vote for the commencement of any general system of that sort, we shall never begin. At any rate, as we now put the finishing hand of the Government to one of the most important parts of any such possible or practicable system, without any public inconvenience, there can be no good reason for delay. It is a pledge that we are in earnest, and that our professions are to be fulfilled to the various interests of the nation. Mr. S. regretted, that his colleague, (Mr. MARVIN,) whom he hoped to have found friendly to the present measure, was not prepared to go along with the friends of the bill. He doubts, however, if this Canal is to be adapted to the proper and useful

kind of coast navigation required by such a work. It is, said Mr. S. to be constructed for a draught of eight feet water, and sixty feet wide—capable of floating that description of vessels which carries on the great mass of the coast trade and navigation. The navigation of the Hudson River, Long Island Sound, the Delaware and Chesapeake Bays, may pass this Canal, and he had been informed that the broad interior waters along the coast of North Carolina generally admitted no greater draught of water than this, even from the ocean. The utmost security may be had, that the account which we have received of this work, in the book laid before us, is correct.—It is on the credit of Engineers, in whom we may place the greatest confidence.

It has been also asked, if it was just that the whole amount of this subscription should be paid immediately by the United States, while the other proprietors may have only paid a proportion of their shares? No, sir; nor does the bill propose or authorize any such payment. It is not a gross appropriation. In the language of the bill, it is to be paid as the corporation shall require it—but the plain, fair, and only rational interpretation of the section is, that it is to be required in the mode authorized by the charter of the company, which subjects, on every call of the capital, all the stockholders to an equal payment in amount. We become subscribers on the terms of the charter, and stand in the same situation and responsibility as individual stockholders do. There can be no misconstruction on this. It is further objected, that we have no information whether the shares of defaulting stockholders have been forfeited. A member near me, who knows the fact, informs me that these forfeitures have been exacted in many instances. There may be cases, however, in which it may not have been politic, or for the interests of the company, to subject the shares to forfeiture. I understand that suits are pending against some for the recovery of the amount of subscription; and it is a settled point that they may be recovered. But, sir, no well-founded apprehension can exist on this matter. The active proprietors and directors of the company are gentlemen of wealth and respectability—doubtless men of sagacity, and who well understand their own interest. We may safely confide to their discretion and judgment the management of our interest which is to be in common with theirs. There can be no danger of any receipt of dividends by stockholders beyond the proportionate amount paid in. Our control, too, over the directors, is in the proportion of an interest in the stock, and I have no doubt that the investment will prove to be profitable. If it should not, however, actually be as much so as some might expect, yet the national benefits of the work would far exceed the value of all we contribute to it. It is now a favorable occasion for exerting our constitutional power, and he hoped that his colleague, on further reflection, would unite with the House in the measure, and vote for the bill.

Mr. MARVIN observed, in reply, that he was in want of no information from his colleague, respecting the importance of the canal, or the general course of the trade of this country. What he had asked for, and what he thought it important for Congress to possess, was official and specific information respecting the facts on which this bill professes to rest the character of the work; for instance, in respect of durability, and all those various particulars which a private subscriber would wish to know, before embarking his capital in such an undertaking, and all those which characterized it as fit for the national patronage. Many particulars have been stated, and possibly with great correctness; but Congress had no official proof of this: his colleague had told the House, that this was the completion, and not the commencement, of the first part of a system of internal improvements; but where was the proof? He repeated that the stock was not all subscribed, and that Congress ought

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first to ascertain that it would be. It had been said, by his colleague, that the Government would not have to pay any more or any faster than other subscribers; but the bill contained no proviso to that effect: on the contrary, it said that the money should be paid whenever it was called for by the Company. He supposed it was fair to conclude that the Company intended to treat the Government as it treated other subscribers, but this ought to be secured by the bill.

Mr. BUCHANAN said, he rose, to make a short reply to such of the observations of the gentleman from New York, (Mr. MARVIN,) as had not been noticed by the gentleman from the same state, (Mr. STORRS,) in the able argument which he had just finished.

The gentleman from New York (Mr. MARVIN) commenced his argument, by stating, that we had not sufficient information upon the subject of this Canal, to enable us to act wisely. That no survey of the route had been made under the act of the last session, and therefore this appropriation was premature.

It was true, said Mr. B. that no survey has been made under the act of the last session; but the reason is, that such a survey was wholly unnecessary. It would have been a vain labor. That gentleman has not examined the evidence before the House with his usual care, or he never would have urged such an objection. If he had attentively read the report on the subject of the canal, which has been laid upon our tables, he would have discovered that the route had been surveyed and re-surveyed again and again. Sir, said Mr. B. the whole face of the country between the two bays has been literally covered with surveys. After all the information had been collected which it was possible to obtain, so prudent and so cautious were the gentlemen who had the management of the Company, that they would not finally fix the route of the canal, until the engineers of this Government should give it the sanction of their approbation. Application was made to the War Department for their assistance, and it was promptly granted. Gen. Bernard and Col. Totten, with the engineers of the Company, carefully examined the different routes; and, after much investigation, finally determined in favor of that one, on which the work is now progressing.

This route, said Mr. B. was not established in accordance either with the interest or the wishes of a majority of the people of Delaware. The citizens both of Wilmington and of Newcastle were opposed to its present location.

It is too far south essentially to promote their prosperity. The truth is, its location was determined much more with the view of making it, what it really will be, the principal link in the grand chain of internal navigation through the Atlantic states, than to subserve the commercial purposes of the cities and towns in its vicinity. Had this alone been the object of the Company, it might have been accomplished for almost half a million less than must now be expended. The work is truly national in its character, and it has been projected on a scale worthy of the nation. Before the passage of the act of the last session, it had received the approbation of the Engineer Department, and of the Secretary of War. What then would have been thought of the conduct of that officer, had he directed a new survey to be made under this act? He deemed it altogether unnecessary. In order to establish this position, I will take leave to read to the House an extract from his late report made to the President. He declares that "the Board was, accordingly, instructed to examine the routes for canals between the Delaware and the Raritan; between Barnstable and Buzzard's bays, and Boston harbor, and Narragansett bay. The execution of the very important link in this line of communication between the Delaware and the Chesapeake, having been already commenced was not comprehended in the order."

And yet, said Mr. B. the gentleman from New York

wishes to have another survey, and more information, before he can feel himself at liberty to vote for this appropriation. Surely, if that gentleman had examined the documents to which I have adverted, his candor would have prevented him from using such an argument against the passage of this bill.

The gentleman has objected to the adoption of this measure, because, he says, it does not appear that the shares, belonging to such stockholders of the old company as were still in debt for their stock, have been forfeited. Said Mr. B. I think it will appear that the gentleman has again mistaken the fact. What says the report upon this subject? It appears from it that, when this great work was about to be revived, the directors called upon the old stockholders for the payment of five dollars on each share, for the purpose of discovering such as might be willing to continue members of the company. Most of the shares upon which the \$5 were not paid, according to this requisition, belonged to insolvents and to the estates of deceased persons. These shares have since been forfeited, and sold at public auction, pursuant to the order of the board. In all cases in which there was a reasonable prospect of recovery, the gentleman from Delaware, (Mr. M'LANE) informs me, suits have been instituted by the company.

The gentleman from New York has, therefore, no cause of alarm on this account. Self-interest is sharpened; and it is for this reason that the money of the Government can never be more securely invested, nor more economically applied, than when it is connected with that of individuals, and shares the same fate.

The gentleman from New York has urged, as an argument against the passage of this bill, that our subscription should have been conditional, and not to take effect until the remainder of the stock, necessary to complete the canal, shall have been subscribed.

I am extremely sorry, said Mr. B. that the gentleman had not made this discovery before the bill was on its third reading, when it cannot be amended. Had he offered such an amendment at the proper time, it would, no doubt, have been adopted by the friends of the bill. But is such a provision necessary to secure the completion of the work? Certainly not. The present stockholders have already given you a pledge of \$700,000, that they will not suffer this great national work to sink. After you shall have subscribed \$300,000 there will then be little more than \$200,000 necessary to complete it. There is no necessity for the condition proposed by the gentleman, unless you believe that, in regard to this canal, the nature of man will be reversed, and the dictates of self-interest disregarded.

I would ask the gentleman seriously, whether he can believe there is any danger, that the individuals interested in this undertaking, after \$1,000,000 shall have been expended upon it, will suffer it to sink into ruin, rather than advance the sum necessary for its completion? Whether they will voluntarily abandon the toils and the other advantages which will flow from it, and lose 700,000 dollars, rather than incur an additional expense of 200,000 dollars?

The Company have already made contracts for the whole work. They have thus pledged themselves to the contractors for its completion. They are, therefore, not only bound by their interest, but by the obligation of their contracts to finish it. Such a condition, therefore, as that suggested by the gentleman from New York is wholly unnecessary.

Mr. B. said, that as he had risen merely to answer the arguments of the gentleman from New York, and not to enter generally upon the debate, he would now resume his seat.

Mr. M'LANE, of Delaware, said, that he did not rise for the purpose of entering any further into the debate, but merely to state a fact for the information of the gentleman from New York, (Mr. MARVIN.) This work was



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a national work, not merely in its benefits, as they had been stated, but in the care of Government manifested towards it ever since the year 1807-8. All concerns of this kind were most profitable when conducted on a small scale; they were, in general, calculated for boats of a small draught of water; but this canal was of dimensions which fitted it to receive bay craft, so that vessels proceeding northward from Norfolk, may enter and pass through it without a change of cargo; this had been done at the suggestion of Government; and in order to make the object of national utility, it was done under the auspices of Mr. Gallatin, then Secretary of the Treasury, and the surveys and estimates for it had all been under the superintendence of Government from the time of his administration until now.

If the canal had been constructed on a smaller scale, the individual subscriptions would have been sufficient to finish it; the Company now only offers to Government a share in the fruits of what was begun by individual enterprise. Government has uniformly considered and treated this as a national object; the Secretary of War so treats it in his report rendered at the present session. Whether we look at the reports of 1808, or 1824, we find it spoken of in no other language. Mr. M'LANE thought no further information was required to enable it to act on the subject.

Mr. MARVIN (by leave obtained) rose to explain, and stated, in substance, that the two gentlemen last up, were mistaken in supposing that he had not examined the report of the Secretary of War; he had not only examined it, but had expressly referred to it in his former remarks; he was always thankful to gentlemen for information; but they must pardon him if he insisted that, in cases like the present, the information before the House ought to be of an official kind.

The question having been repeatedly called for, was now put and decided in the affirmative, by yeas and nays, as follows:

YEAS.—Messrs. Adams, Alexander, of Tenn., Allen, of Mass., Allison, Baylies, Bartley, Beecher, Blair, Breck, Brent, Buchanan, Call, Cambreleng, Campbell, of Ohio, Cassedy, Collins, Condict, Cook, Crowninshield, Cushman, Cuthbert, Durfee, Dwight, Ellis, Farrelly, Foot, of Conn., Forsyth, Forward, Fuller, Gatlin, Gazlay, Gurley, Harris, Hayden, Hayward, Hemphill, Henry, Herkimer, Holcombe, Houston, Ingham, Isaacs, Jennings, Johnson, of Va., J. T. Johnson, F. Johnson, Kent, Kremer, Lathrop, Lawrence, Lee, Letcher, Locke, M'Arthur, M'Duffie, M'Kean, M'Kee, M'Lane, of Del., M'Lean, of Ohio, Mallary, Martindale, Matlack, Mercer, Metcalfe, Miller, Mitchell, of Penn., Mitchell, of Md., Moore, of Ken., Moore, of Ala., Neale, Newton, Owen, Patterson, of Penn., Patterson, of Ohio, Plumer, of N. H., Plumer, of Penn., Poinsett, Rankin, Reynolds, Rose, Ross, Sandford, Scott, Sharpe, Sloane, Wm. Smith, Spence, Standefor, Sterling, J. Stephenson, Stewart, Storrs, Strong, Swan, Test, Thompson, of Penn., Thompson, of Ken., Tomlinson, Trimble, Udree, Vance, of Ohio, Van Rensselaer, Vinton, Wayne, Webster, Whittlesey, Wickliffe, James Wilson, Henry Wilson, Wilson, of Ohio, Wolfe, Woods, Wright—113.

NAYS.—Messrs. Abbot, Alexander, of Va., Bailey, Barber, of Conn., P. P. Barbour, Bartlett, Bassett, Bradley, Buck, Burleigh, Cady, Campbell, of S. C., Carey, Clark, Cocke, Conner, Crafts, Craig, Culpeper, Day, Dwinell, Edwards, of N. C., Findlay, Foote, of N. Y., Frost, Garrison, Gist, Govan, Hall, Hamilton, Harvey, Herrick, Hogeboom, Hooks, Jenkins, Leftwich, Lincoln, Litchfield, Little, Livermore, Long, Longfellow, M'Coy, M'Kim, Mangum, Marvin, Matson, Morgan, O'Brien, Olin, Outlaw, Richards, Saunders, Sibley, Arthur Smith, Alexander Smyth, Spaight, A. Stevenson, Stoddard, Taltierro, Tattall, Taylor, Ten Eyck, Thompson, of Geo., Tucker, of Va., Tucker, of S. C., Tyson, Whip-

ple, Whitman, Williams, of N. Y., Williams, of Va., Williams, of N. C., Wilson, of S. C., Wood—74.

So the bill was PASSED and sent to the Senate for concurrence.

#### CONTINUATION OF THE CUMBERLAND ROAD.

The engrossed bill to continue the Cumberland Road was then read a third time, and, the question being on its passage,

Mr. FORSYTH, of Geo., expressed his regret that he had not been present when the yeas and nays were taken on passing the bill to a third reading, that he might have had the pleasure then of recording his vote, as he should vote upon the present question in the affirmative.

Mr. ARCHER, of Va., demanding the yeas and nays, they were taken accordingly; and were as follows:

YEAS.—Messrs. Adams, Alexander, of Tenn., Allison, Baylies, J. S. Barbour, Bartley, Beecher, Blair, Bradley, Breck, Brent, Burleigh, Call, Cambreleng, Campbell, of Ohio, Cassedy, Clark, Condict, Cook, Crowninshield, Cushman, Cuthbert, Durfee, Ellis, Farrelly, Forsyth, Forward, Fuller, Gazlay, Gurley, Hayden, Hemphill, Henry, Holcombe, Houston, Ingham, Isaacs, Jennings, J. T. Johnson, F. Johnson, Kent, Kremer, Lawrence, Lee, Letcher, Little, Locke, M'Arthur, M'Kean, M'Kee, M'Kim, M'Lane, of Del., M'Lean, of Ohio, Mallary, Martindale, Mercer, Metcalfe, Miller, Mitchell, of Md., Moore, of Ken., Moore, of Ala., Neale, Newton, Owen, Patterson, of Penn., Patterson, of Ohio, Plumer, of N. H., Poinsett, Reed, Reynolds, Ross, Sandford, Sloane, Wm. Smith, Spence, Standefor, J. Stephenson, Stewart, Storrs, Strong, Test, Thompson, of Ken., Tomlinson, Trimble, Udree, Vance, of Ohio, Vinton, Wayne, Webster, Whitelsey, Wickliffe, James Wilson, Henry Wilson, Wilson, of Ohio, Wolfe, Woods, Wright—97.

NAYS.—Messrs. Abbot, Alexander, of Va., Allen, of Mass., Archer, Bailey, P. P. Barbour, Campbell, of S. C., Carey, Cocke, Conner, Crafts, Craig, Culpeper, Day, Dwinell, Edwards, of N. C., Foot, of Conn., Foote, of N. Y., Frost, Garrison, Gatlin, Govan, Hamilton, Harris, Harvey, Herrick, Herkimer, Hobart, Hooks, Jenkins, Leftwich, Lincoln, Litchfield, Livermore, Long, Longfellow, M'Coy, M'Duffie, Mangum, Marvin, Matlack, Matson, Mitchell, of Penn., Olin, Outlaw, Plumer, of Penn., Richards, Saunders, Sharpe, Sibley, Arthur Smith, Alexander Smyth, Spaight, Sterling, A. Stevenson, Stoddard, Swan, Tattall, Taylor, Ten Eyck, Thompson, of Penn., Thompson, of Geo., Tucker, of Va., Tucker, of S. C., Tyson, Whipple, Whitman, Williams, of N. Y., Williams, of Va., Williams, of N. C., Wilson, of S. C., Wood—72.

So the bill was PASSED, and sent to the Senate for concurrence.

#### SENATE.—MONDAY, JANUARY 24, 1825.

The Senate again took up the bill allowing a drawback on cordage manufactured from hemp imported.

The debate on this bill occupied the remainder of the day's sitting. The debate embraced the same range of argument, as to the practical effect of the proposed measure on the commerce and navigation, and the manufacturing and agricultural interests of the country, which the debate occupied on former occasions, when it has been fully discussed, and the discussion fully reported, and which must be fresh in the recollection of our readers. The bill was opposed at considerable length by Mr. DICKERSON and Mr. TALBOT, and was advocated by Mr. SMITH and Mr. D'WOLF.

Without taking any question on the subject; after the debate had continued till past three o'clock,

The Senate adjourned.

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## HOUSE OF REPRESENTATIVES—SAME DAY.

## UNITED STATES' PENAL CODE.

On motion of Mr. WEBSTER, of Massachusetts, the House proceeded to the consideration of the bill making further provisions for the punishment of certain crimes committed against the United States.

Mr. WICKLIFFE, of Kentucky, moved to recommit the bill to the Judiciary Committee, with instructions to alter it in two respects: first, by substituting fine and imprisonment, in proper proportion, for capital punishments, in cases described in the first section; and, secondly, by altering the other sections in such a manner as to confine the operation of the bill to places without the jurisdiction of any particular state. Mr. W. expressed himself as opposed to capital punishments, except in cases of murder and treason; and he felt satisfied that the public sentiment of this country, in this respect, coincided with his own. The objects of punishment he held to be two: first, the reformation of the offender, and, secondly, the benefit of society. Capital punishment obviously defeats the first of these objects. The example, to be sure, is left, but he doubted greatly whether such an example which presented the offender as suffering the penalty of death under the United States' laws, for offences, some of which were not made capital and penal by the laws of any of the states, was calculated to have a salutary effect on the public mind, and where the feelings of society revolt against the severity of any penal enactment, it usually happens that the law is practically defeated, and the offender suffered to escape, through the lenity of courts and juries. He feared that such would be the effect of the great number of capital penalties provided by the present bill.

He objected, also, to another section of the bill, which provides, in general, that offences not enumerated in the bill shall be punished, according to the laws of the state in which they are committed. To this, there laid two objections: the first was, that it presented the extraordinary spectacle of one sovereign adopting the laws of another without any knowledge of what they were; the second objection was, that it rendered the laws of the United States, not uniform, but varied according to the varying regulations of twenty-four distinct and independent state Governments.

But, Mr. W. said, the strongest objection which he had to this bill was one which he had taken occasion to state on a former occasion, viz: that it extends the jurisdiction of the United States to offences committed within the territories of the several states. It had been said that such an extension would produce no difficulty, because, as it is an unpleasant duty to inflict punishments, the state Governments would be perfectly willing that the General Government should take it off of their hands. But, unpleasant as it might be, Mr. W. said, if it was necessary to punish crime, the State Governments were not reluctant to prescribe the punishment. The period might arrive when the question, as to the right to punish offences might become an important question between the two Governments. Cases might occur, in which the State Governments would claim the right of punishing offences within their jurisdiction. If, said he, such a state of things may arise, and the exercise of this power is not necessary to the due execution of the express powers of the General Government, I am for leaving the punishment of these offences to the State Governments, which have been heretofore not slow to punish crimes committed either upon persons or property within their territorial limits. To his mind, Mr. W. said, the bill presented a strange anomaly. He could not conceive of the existence of a right in two Governments to punish the same individual for the same offence. He could not recognize the right of concurrent jurisdiction, as it had been termed in debate, to inflict

separate and distinct punishment for the same offence upon the same individual. If the right exists, what will be the consequence of its exercise? Can one sovereign be deprived of his right by the exercise of a similar right by another? Can the exercise of the right by this Government deprive the State Governments of their right in this respect? If there be any right which may be emphatically termed State—any right guaranteed to every state in the Union, it is the right of punishing offences committed within its limits. Then, unless the power of punishing these offences were expressly granted, or indispensable to the exercise of power expressly granted, to the General Government, it would be unwise in it to undertake to exercise that right.

Mr. W. said, in continuation, that he did not believe the power to punish some of the offences described in the bill could be fairly derived from any of the specific powers granted to Congress. It had been asked if Congress had not the power to punish these offences, where did they get the power to punish the offences now punishable by the laws of the United States? But, Mr. W. said, what was the nature of those offences? They were offences against the laws of the United States, made under the express grants of power—such, for example, as counterfeiting the coin of the United States—robbing the mail, &c. The question whether the states have power to provide for the punishment of these offences was yet unsettled—it was what lawyers term a vexed question. Mr. W. said, he had himself once occasion to prosecute a man for counterfeiting the current coin. The learned Judge who presided in the cause had declared that the states had no power to punish the offence, forasmuch as the power had been delegated to the United States, and that their jurisdiction covered the whole. To be sure, Mr. W. said, he did not then, nor did he now, subscribe to the correctness of this opinion: but such had been the decision of the Court.

As to the argument by which the power to punish these was incidental to the power to define admiralty and maritime jurisdiction, Mr. W. said he could not subscribe to it in its full extent: and, unless the power to punish offences was contained in that clause of the constitution, it was not contained in any other, unless it was an implied power, derived from the power to regulate commerce. He was not prepared to admit, that, under that clause of the constitution, Congress could provide for the punishment of offences committed within the territory of the states. For, if they could, all offences against private property and persons would fall within the cognizance of Congress. But, suppose it were conceded that this power actually does result from the admiralty and maritime jurisdiction of the United States' Courts; have we, said he, any data by which we can measure the extent of that jurisdiction? Can we say at what point, in increasing this jurisdiction, the federal judiciary will stop? Does the federal constitution, or do the laws of the United States, prescribe any limit to the extent of that jurisdiction? For his part, he said, he had in vain sought for a limit to it. It was worthy of remark, that, a short time after the adoption of the constitution, when the Government was about to legislate for putting its powers fairly in execution, there was, in all the statutes for the punishment of offences under admiralty jurisdiction, an express exception as to offences committed within the territorial limits of the states. This ought to be some guide as to the jurisdiction which may be rightfully exercised by the General Government under that clause of the constitution. The House was asked to put within federal jurisdiction all crimes committed within maritime jurisdiction. What is the extent of that jurisdiction? In civil causes, locality or character may determine the question: in criminal cases, the locality alone, and that is to be regulated by the practice and discretion or judgment

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of the Court. It had been said that it extends wherever the tide ebbs and flows. But, Mr. W. demanded, where is the law which confines that jurisdiction to the ebb and flow of the tides? Adverting to the jurisdiction of the Admiralty Courts of Great Britain, as settled by practice, or limited by the statutes of that country, he said that the statutory definitions, as far as he understood, were not applicable, as authority, in the Courts of this country. He here repeated, what he had stated on a former occasion, that admiralty jurisdiction had been claimed and exercised in a state of this Union where the ebb and flow of the tide is not known. Since making that statement, the other day, he had learnt that the same jurisdiction had been exercised in other states—at Pittsburgh, in Pennsylvania, by the District Judge. Is it in contemplation to punish offences, committed upon the Ohio river, in the Federal Court at Pittsburgh? Is it intended that the Admiralty jurisdiction of the Courts of the United States shall extend to the Ohio, the Mississippi, and the Missouri? Is it proper, is it necessary, that a citizen should be sent three, four, or five hundred miles, to be tried by a Federal Court for offences committed within the jurisdiction of the State Governments? Is it intended to let the Federal Courts punish offences committed in waters or streams navigable for vessels carrying ten tons burthen? It is not to be denied that the Ohio and Mississippi rivers are capable of bearing vessels of ten tons burthen. If this bill passes, then you extend to the Federal Judiciary the power of punishing common offences, within the limits of states, where the state authorities are always competent and always willing to punish them. There cannot, therefore, be any necessity for the passage of this bill. Mr. W. here quoted the act of Congress extending the jurisdiction of the District Court of the United States to cases arising on waters navigable by vessels or boats of ten tons burthen, and asked whether it was necessary to the exercise of the specific powers of this Government, that this jurisdiction should be exercised by the Federal Courts, or given to them, as to offences, some of which were described in this bill. He adverted to a celebrated decision of Judge Story, upon the principles assumed in which, he said, no man could tell where admiralty jurisdiction might not be exercised; and, he said, if he were to judge from the last opinion of the same Judge on this subject, he should infer that he was prepared to act upon the principle of the Latin adage, the English of which is, that it is the province of a good judge to extend his jurisdiction. On the subject of maritime jurisdiction, the Judge says—"The language of the Constitution will warrant the most liberal interpretation; and it may not be unfit to hold that it had reference to that maritime jurisdiction which *commercial convenience, public policy, and national rights*, have contributed to establish." Now, Mr. W. said, what might not, in the discretion, he might say *legislation* of that Court, be the meaning of commercial convenience, public policy, and national rights? I have, said he, rather a repugnance to granting to that Court more jurisdiction than is absolutely necessary for the execution of the powers of the General Government. From what we have seen, if we may judge from that, they will not be reluctant to exercise any jurisdiction which they can make out a claim to. If these enactments are not necessary—if the states have not refused to punish these crimes when committed within their jurisdiction, why should we undertake to perform this duty for them?

As relates to those offences against life, limb, or property, committed without the limits of the states, Mr. W. said he would willingly go with the gentleman from Massachusetts, in legislating for their punishment, provided some proportion was preserved between the punishment and the crime.

Mr. WEBSTER observed, in reply, that the object of

the gentleman from Kentucky might be attained without recommitting the bill, by moving amendments calculated to remove his objections to it in its present form. Recombinment was a practice resorted to only when the whole frame of a bill required altering, and the entire bill was to be re-cast. As to the third section, it must be obvious, that, where the jurisdiction of a small place, containing only a few hundreds of people, (a navy yard for instance,) was ceded to the United States, some provision was required for the punishment of offences; and as, from the use to which the place was to be put, some crimes were likely to be more frequently committed than others, the committee had thought it sufficient to provide for these, and then to leave the residue to be punished by the laws of the state in which the yard, &c. might be. He was persuaded that the people would not view it as any hardship, that the great class of minor offences should continue to be punished in the same manner as they had been before the cession. This provision in the third section embraced the whole of a bill on this subject, which passed the Senate at the last session. The committee did not suppose it incumbent on them to enter into the details of a complete code of penal laws for a few hundreds of the people in the United States' dock yards and arsenals. With respect to the other objection of the gentleman from Kentucky, respecting confining the operation of the bill to the high seas and places not within the jurisdiction of any of the states, Mr. WEBSTER said, that it was his intention (though not by any means for the reasons assigned by that gentleman, but in reluctant acquiescence with the wishes of a highly respected member of the Judiciary Committee,) to modify the bill in the manner the gentleman desired.

In reply to what the gentleman seemed to apprehend from extending the admiralty jurisdiction of the Federal Courts to the state of Kentucky, he desired the gentleman to remember, that it was only the criminal jurisdiction which was proposed to be exercised. The cases to which the gentleman had referred, were all under its civil jurisdiction, a jurisdiction which often attaches from the subject-matter of contracts, and which, on that account, is much more extensive than the criminal. As to the contests which the gentleman had mentioned, between the civil and the common law courts, none, so far as his knowledge extended, had even thought of contending that the admiralty jurisdiction of England extended to cases of revenue.

Mr. WRIGHT, of Ohio said, that he concurred with the gentleman from Massachusetts, that there existed great defects in the criminal law of the United States, and that it was highly proper and necessary that they should be remedied; yet he could not consent, in the attempt to remedy them, to give to the courts of the United States a jurisdiction which he did not think was given by the constitution. The bill extended that jurisdiction to navy yards and armories, neither of which were mentioned in that clause of the constitution which enumerates the places where the exclusive jurisdiction of the United States is to be exercised. He would confine the language of the bill, in this part of it, to the very words of the constitution, as he was entirely opposed to giving, by any act of legislation, a construction to any part of that instrument. The United States can get jurisdiction only by cession from a particular state. He moved to strike out the words "navy yard," "arsenal."

The chair pronounced the motion not to be in order until the whole bill had been gone through.

On motion of Mr. WEBSTER, the fifth section of the bill, which provides for the punishment of offences committed in any foreign port, on board vessels owned by citizens of the United States, was amended by inserting the following words:

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"By any person belonging to the company of said ship, or any passenger, on any other person belonging to the company of said ship, or any other passenger."

On motion of Mr. WEBSTER, the words "and out of the jurisdiction of any particular state" were added to those parts of the bill which prescribe the limits within which the crimes to be punished must have been committed. Mr. W. further stated, that the present law provided punishment against seamen who "make revolt." But, as this term is unknown to both the civil and the common law, and is found only in the act of Congress, to which he referred, a question had arisen in the Courts as to what acts constituted a revolt; and in one case it had been decided, that, as there were precedents or legal means of ascertaining what was the extent of that term, so much of the act as prescribes the punishment of a revolt is void. To meet this difficulty, he proposed the following:

[Sec. 5. (printed bill) line 33, after "pirate."]

"Or shall unlawfully imprison or confine the master or commander of such ship or vessel, with intent to deprive him of his lawful command, or to compel him to do any act or thing contrary to his duty, or shall combine and conspire with any other person to make a mutiny or revolt among the crew of such ship or vessel, or to stir up among the crew a general disobedience or resistance to any lawful command or authority of the commander or officers of such ship or vessel."

A proviso was added to the end of the eleventh section, (which provides the punishment of death for burning or destroying a vessel of war of the United States) in the words following:

"Provided, that nothing herein contained shall be construed to take away or impair the right of any court martial to punish any offence which, by the law of the United States, may be punishable by such court."

The following sections were then, on motion of Mr. WEBSTER, added at the end of the bill. In illustrating the first of them, that murder, manslaughter, and maiming, were the only offences now punished by the bill, no provision was made for that class of offences called felonious assaults; for want of which, it had actually happened, that a sailor, who cut the throat of his captain with a razor, from ear to ear, could receive no punishment whatever, because, by a miracle, the captain had recovered. And, in like manner, with respect to the second, that there had lately occurred two cases, in which conspiracies to defraud the underwriters by sinking the ships at sea, had gone unpunished, although clearly proved, because the attempt did not succeed.

[At the end of Sec. 22, of printed amendments.]

"Sec. 22. And be it further enacted, That, if any person or persons upon the high seas, or in any arm of the sea, or in any river, harbor, or creek, and out of the jurisdiction of any particular state as aforesaid, on board any vessel belonging in whole or in part to the United States, or any citizen or citizens thereof, shall, with a dangerous weapon, or with intent to kill, rob, steal, or to commit a mayhem or rape, or to perpetrate any other felony, commit an assault on another, such person shall, on conviction thereof, be punished, by fine, not exceeding three thousand dollars, and by imprisonment and confinement to hard labor not exceeding three years, according to the aggravation of the offence."

"Sec. 23. And be it further enacted, That, if any person or persons shall, on the high sea, or within the United States, wilfully and corruptly conspire, combine, and confederate with any other person or persons, such person or persons being either within or without the United States, to cast away, burn, or otherwise destroy any ship or vessel, or to procure the same to be done, with intent to injure any person that hath underwrit-

ten, or shall thereafterwards underwrite any policy of insurance thereon, or on goods on board thereof, or shall, within the United States, build or fit out, or aid in building or fitting out, any ship or vessel, with intent that the same shall be cast away, burnt, or destroyed, for the purpose, or with the design aforesaid; every person so offending, shall, on conviction thereof, be deemed guilty of felony, and shall be punished, by fine, not exceeding ten thousand dollars, and by imprisonment and confinement to hard labor not exceeding ten years."

"Sec. 24. And be it further enacted, That if any of the gold or silver coins which shall be struck or coined at the Mint of the United States, shall be debased or made worse, as to the proportion of fine gold or fine silver therein contained, or shall be of less weight or value than the same ought to be, pursuant to the several acts relating thereto, through the default, or with the connivance of any of the officers or persons who shall be employed at the said mint, for the purpose of profit or gain, or otherwise, with a fraudulent intent; and if any of the said offices shall embezzle any of the metals which shall at any time be committed to their charge for the purpose of being coined, or any of the coins which shall be struck or coined at the said mint, every such officer or person who shall commit any or either of said offences, shall be deemed guilty of felony, and shall be sentenced to imprisonment at hard labor for a term not less than one year nor more than ten years, and shall be fined in a sum not exceeding ten thousand dollars."

"And be it further enacted, That all acts and parts of acts inconsistent with the provisions of this act, shall be and the same are hereby repealed."

Mr. WRIGHT now repeated his motion for amendment, formerly stated, which, after a short debate, was negatived.

Mr. WICKLIFFE then moved to strike out the punishment of death in the 1st section of the bill, (provided for burning any dwelling house, mansion house, store, barn, stable, light house, arsenal, magazine, rope walk, ware house, store house, block house, barrack, ship or vessel, within any fort, dockyard, navy yard, arsenal, or magazine, belonging to the United States,) and substitute in lieu thereof—

"Shall be punished, by fine, not exceeding 5000 dollars, and by imprisonment and confinement at hard labor, not exceeding 15 years, according to the aggravation of the offence."

As this motion went to a leading feature of the bill, Mr. WEBSTER rose and said, that he might as well take the present opportunity as any other, briefly to state what were his views in relation to the penal parts of the bill. He regretted, as much as any of the gentlemen could do, the necessity of capital punishments, and he did not know that he was not prepared to say, that a system might be formed in which it should be dispensed with altogether. But such was not the present system of our laws. We punish the crimes of treason, murder, and rape, with death, and so long as this punishment was retained at all, he conceived that the crime of arson merited it as richly as either of the other offences. He would state, in a few words, his reasons for this opinion. No human code, proceeding on just principle, could undertake to administer any part of that moral retribution, which belonged to the General Government of the Universe. The great objects of human punishments is to deter, by example, from the commission of crimes. Laws do not, or ought not, to proceed on a vindictive principle. Offenders are punished, not to take vengeance of them, but that others may not offend, in like manner. *Nemo prudens punit quia peccatum est, sed ne peccetur.* Such was the sentiment of Seneca, and it was a just sentiment. The true inquiry, therefore, is, what degree of punishment

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is likely to the purpose of prevention, and to secure the safety of lives and property. It is essential to consider, therefore, in every case, not only whether the crime be highly injurious and dangerous to community, but, also, whether it be of easy, or of difficult perpetration; whether it be usually open, or secret; and if secret, whether detection be generally easy or difficult. Now, with respect to arson, or the malicious burning of dwelling houses, none could doubt, in the first place, its enormity, and the danger and destruction which it brought on life and property. To him it appeared certainly not less atrocious than ordinary murder. It was generally an act of deliberation, and it endangered, not one life only, but many lives. In the next place, it was easy to be committed—it did not require much preparation, or the favor of particular or unusual circumstances, or the aid of numbers. Lastly, it was of difficult detection. It is usually perpetrated in darkness, and the offender may have gone far from the deposited sparks before they shew themselves in general conflagration. Experience proves, that extensive fires often happen in cities, under circumstances clearly evincing the agency of incendiaries, where there has been no conviction, and no detection. The hope of escape, therefore, in such cases, is great, and in minds so depraved, as to be willing to commit the deed, it must evidently be controlled and counterbalanced, by the terror of some dreadful punishment, if detection should follow. Still, however, if the House, on due deliberation, should think that the public safety could be sufficiently secured, he should sincerely rejoice. But, for himself, he had not been able to bring his mind to that conclusion.

Mr. LIVERMORE, after making a few remarks on capital punishments, and the limits within which they should be confined, expressed a hope that the Committee on the Judiciary would further consider that subject, and would be prepared, on to-morrow, to modify this section in such a manner as to remove the burning of some of these objects from under the punishment of death and assign to them a lighter penalty. With this hope he moved that the House do now adjourn.

The motion was agreed to; and the House adjourned accordingly.

IN SENATE—TUESDAY, JANUARY 25, 1825.

## DRAWBACK ON MANUFACTURED HEMP.

The Senate resumed the unfinished business of yesterday—the bill for allowing a drawback on the exportation of cordage manufactured from imported hemp.

Messrs. D'WOLF, and LLOYD of Mass. spoke in favor of the bill, which was opposed by Messrs. EDWARDS, and JOHNSON of Ken.

The question being taken on engrossing the bill for a third reading, it was decided in the negative, by Yeas and Nays, as follows:

YEAS.—Messrs. Bell, Clayton, D'Wolf, Eaton, King, of Ala. King, of N. Y. Knight, Lanman, Lloyd, of Mass. Noble, Palmer, Parrott, Ruggles, Seymour, Smith, Thomas, Van Buren, Van Dyke—18.

NAYS.—Messrs. Barton, Benton, Brown, Boulogny, Chandler, Dickerson, Edwards, Elliott, Findlay, Gaillard, Hayne, Holmes, of Maine, Holmes, of Miss. Jackson, Johnson, of Ken. Johnston, of Lou. Kelly, Lowrie, M'Ilvaine, M'Lean, Macon, Talbot, Taylor, Tazewell, Williams—25.

So the bill was rejected.

## INTERNAL TRADE WITH MEXICO.

The Senate then proceeded to the consideration of the bill reported by Mr. BENTON, from the Committee on Indian Affairs, on the 11th inst. to authorize the President to cause a road to be marked out from the frontier of Missouri to the confines of New Mexico, and making

appropriations therefor. The bill having been read through—

Mr. BENTON rose and said that the petitions presented by the inhabitants of Missouri, and the communication derived from Mr. STORRS, had proved the existence of an inland trade between the valley of the Mississippi and the internal provinces of Mexico. They had shewn also, he said, the dangers to which the trade was subject, from Indian depredation on the way, and arbitrary exactions after it arrived. The Indians, prone to robbery and murder, attacked and pillaged the caravans; the Provincial authorities, separated by an immense distance from the parent government, imposed arbitrary duties on the merchandise imported. To relieve the trade from those dangerous impositions, the citizens of Missouri had addressed themselves to the Congress of the United States, and claimed the interposition of its powerful protection. They have asked, said Mr. B. among other things, for the right of an unmolested passage, protected by treaty stipulations, through the territories of the intervening tribes, and for the appointment of agents, with suitable powers, to reside at Santa Fe and Chihuahua. In deciding upon these requests, the committee to whom the subject was referred, and whose organ I have the honor to be, have held it to be their duty to inquire strictly into the value of the trade for which protection is sought, the probability of its continuance, and its effect upon the social and political, as well as upon the commercial relations of the two countries. They have inquired, accordingly, and, finding the results to be favorable to the object of the petitioners, they have instructed me to report the bill which has been read at your table.

The question being now put, "Shall this bill pass?" I feel myself, said Mr. B. called upon by the novelty of its propositions, by my position as chairman of the committee which reported it, and, above all, by the relation in which I stand with respect to those who are chiefly interested in its passage, to state the reasons which induce me to give an affirmative answer to that question.

First, then, sir, said Mr. B. it does seem to me that the trade between Missouri and Mexico is sufficiently valuable to merit the favor of the national protection. It opens a new and extensive market for the cotton goods grown and manufactured in our own country; a market not circumscribed by the walls of a town, or the shores of an island, but spreading over an area of a million of square miles. The seven internal provinces are equal in extent to seven of the principal kingdoms of Europe put together. They are large enough to give rise and outlet to a river washing more territory than the Danube—the Rio del Norte, which traverses sixteen parallels of latitude, and finds in three provinces only, in those called Eastern, an ample space in which to unfold its enormous length. The resources of this extensive region are rich and various. The mountainous districts abound with furred animals; the plains with mules, horses, and cattle; and the central parts with gold and silver mines. The population, exclusive of that description of Indians which the Spaniards call "*Indios Bravos*," amounts to 600,000 souls, and increases with the rapidity only known to new countries, where manners are simple, the means of subsistence abundant, and land a free gift to all that will take it. The trade of a people inhabiting a country so vast, possessing resources so rich, and increasing in numbers as rapidly as ourselves, must doubtless be valuable. It has already yielded, for the present year, \$190,000, in gold and silver coin, and bullion, and precious furs; and this sum, although considerable in itself, is only a beginning, and an earnest of what may be expected when the trade is protected and carried to the extent of which it is capable.

The trade promises to be permanent. The internal provinces are naturally dependent upon the valley of the Mississippi for their supplies of foreign goods. They



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bind upon each other for more than a thousand miles. The Red River, the Arkansas, and the Kansas, furnish different lines of water communication; and the land route is free from obstruction to the march of wagons and carriages, and abounding with the means of subsistence for men and horses. This interior region, so open to access from the valley of the Mississippi, is almost unapproachable from every other side. It is separated from Mexico, proper, by distance, by deserts, and by mountains. It is cut off from the Atlantic and Pacific oceans by the same barriers. Its interior position has acquired for it the emphatic title of "*Provincias Internas*," and induced the Kings of Spain to favor it with a government of itself, independent of the Vice Roys of Mexico. To aggravate the evil of such a position, is the want of navigable rivers. The Rio del Norte, though magnified by the Spaniards by the imposing titles of "*Bravo*" and "*Grande*," is yet only brave in a war upon sand, and only great in the distance which it runs. Of the two thousand miles which it displays in length, no more than four or five hundred, and these towards its head, are fit for navigation; all the rest is choked up with sand.—Akin to this evil is another—the want of convenient sea-ports. The internal provinces may be said to be without sea-ports. Guaymas, in the gulf of California, is small in itself, not readily approached, and separated from the valley of the Rio del Norte, by some hundred leagues of distance, and the lofty ridge of Sierra Mader. San Bernardo and Galveston, on the coast of Texas, are nothing but anchorages, and separated by great distances from the rich and populous provinces. Vera Cruz, Tampico, Alvarado, and Acapulco, are about as far off as our Pittsburg is from the town of Santa Fe.—They are as far off in measured miles, and about ten or twenty times further in the difference of transportation. From the Mexican ports, the whole route to Santa Fe is over land, and the backs of mules the only means of conveyance. From Pittsburg, the entire distance, with the exception of a mere fraction, is a water line of river navigation. Look at the maps. See the Ohio running a thousand miles direct from Pittsburg towards Santa Fe; then see the Kansas, the Arkansas, and Red River, running directly from it, and meeting the Ohio in the central channel of the Mississippi. Thus not only St. Louis and the towns on the Missouri river, but those on the Ohio, and even those on the sea board of the Atlantic states, are nearer to Santa Fe than either Vera Cruz, Acapulco, or any other Mexican port. But the decision of the question does not depend upon a view of the maps. It is already solved. The merchandise which is now carried from Missouri to the internal Provinces, is the same which had been previously brought down the Ohio from the Atlantic ports and factories. The cotton goods thus carried out, bear the stamps of Arkwright and Waltham, and are the same which, after paying the cotton grower for the raw material, and leaving a profit in the hands of the manufacturer, the first, second, and third sellers, and giving employment to numerous carriers, are still sold at another profit in the internal Provinces, and yet sold so low as to drive out of market every competitor from the Mexican ports. This fact, so important to the legislator, is vouched by Mr. Spons, who informs us that the arbitrary duty imposed by provincial authority, upon American importations, was imposed at the instance of the traders from the Mexican ports, to enable them to contend with those who derive their supplies from the seaboard of our north Atlantic States. Allied by nature, the Internal Provinces are now allied in fact, with the valley of the Mississippi. For ages they had been separated by the power of man. The jealousy of despotism had raised between them a barrier of interdicts, more impassable than walls of stone or brass. But liberty has raised her head, and the barrier is overthrown. Our adventurous citizens enter, and unless checked by the government, they will make the inland trade to Mexico

as permanent as are the localities, and the liberties of their countries.

To the people of the West, I know this trade to be an object of the greatest value. Their own interior position cuts them off from foreign commerce. The Mexicans are their neighbors, and the only foreign power with whom they can trade. It is one of the few sources from which they can derive the precious metals. The coin already brought in, constitutes the circulating medium of the country in the western parts of Missouri. It is paid into the offices for public lands, and then comes into the coffers of the government, whose protection it now solicits.

But it is not the West alone which is benefitted by this trade. The North and the South participate in her profits. The South grows the cotton, the North works it up, and the West exports it; thus displaying one of the most beautiful operations of agriculture, manufactures, and commerce, mutually dependent upon, and mutually aiding each other.

That the trade will be beneficial to the inhabitants of the Internal Provinces, is a proposition too plain to be argued. They are a people among whom all the arts are lost—the ample catalogue of whose wants may be inferred from the lamentable details of Mr. Spons. No books! no newspapers! Iron a dollar a pound! cultivating the earth with wooden tools! and spinning upon a stick! Such is the picture of a people whose fathers wore the proud title of "*Conquerors*," whose ancestors, in the time of Charles the Fifth, were the pride, the terror, and the model of Europe; and such has been the power of civil and religious despotism in accomplishing the degradation of the human species! To a people thus abased, and so lately arrived at the possession of their liberties, a supply of merchandise, upon the cheapest terms, is the least of the benefits to be derived from a commerce with the people of the United States. The consolidation of their republican institutions, the improvement of their moral and social condition, the restoration of their lost arts, and the development of their national resources, are among the grand results which philanthropy anticipates from such a commerce.

Thus, Mr. President, I think it is fairly demonstrated that the trade in question is worthy of the national protection. The next inquiry is—*Will the government protect it?* I answer that the claim for protection rests on the same principle which carries protection to the commerce of the Union upon every sea, in the most remote countries; and upon distant isles. Our maritime commerce requires ships, treaties, ambassadors, consuls, and successive wars, to protect it. The inland trade to Mexico, requires a *right of way*, to be purchased from the Indians, and two or three commercial agents to be stationed in the Internal Provinces. At this very moment we are enacting, with the greatest unanimity, measures of a war character against the pirates of Cuba; and for what? To protect the lives and merchandise of our citizens, in passing through the Gulf of Mexico. And will you not protect the same citizens in going to Mexico by land as well as by water? Will you not protect them against Indians as well as against pirates? Will you lavish your sympathy upon a citizen hung by a pirate, and deny your compassion to a citizen shot and butchered by an Indian? The story of piratical murders has been told to you in language which harrows up the soul; now listen to a plain statement of robberies and murders committed upon our citizens on their way to Mexico.

"Mr. Choteau was attacked upon an island in the Arkansas river, by 300 Pawnees. They were repulsed with the loss of thirty killed and wounded, and declared it to be the most bloody affair in which they had ever been engaged. This was their first acquaintance with American arms. In 1822, Mr. Maxwell was killed, and another American wounded, by the Camanches, near the mountains. In 1823, the Pawnees killed a Spaniard, on the

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Arkansas, in the service of William Anderson, and forcibly took from him thirteen mules. The company which went out last summer had upwards of forty horses and mules stolen, about fifteen miles south of the Arkansas, by the Camanches, who lost one man in the affair. The same company, thirty-two in number, encountered, on their return, a war party of eighty Pawnees. The war whoop was raised, and both parties drew up for action; but the enemy agreed to a compromise when they found that they could not rob without losing the lives of their warriors. In the winter of 1822-'23, Mr. John McNight, of St. Louis, was killed by the Camanches, at some distance south of the Arkansas."

The use of an unmolested passage between Mexico and the United States, is as necessary in a political, as in a commercial point of view. They are neighboring powers, inhabitants of the same continent, their territories contiguous, and their settlements approximating to each other. They are the two chief powers of the New World, and stand at the head of that *cordon* of Republics, which, stretching from pole to pole, across the two Americas, are destined to make the last stand in defence of human liberty. They have the legitimates of Europe in front, and the Autocrat of all the Russias in the rear.—They are Republican, and Republics have become "the abhorred thing," the existence of which, is not to be tolerated in the land. The time was, Mr. President, when the kingdom and the republic could exist together; when the Swiss, the Dutch, and the Venetian republics, were the friends and allies of Kings and Emperors. But that day has gone by. The time has come when the monarch and the republican can no longer breathe the same atmosphere. A speck of republicanism above the political horizon, now throws all Europe into commotion. Telegraphs play, couriers fly, armies move, the Cossacks of the Don and of the Ukraine couch their lances, kings and emperors vault into their saddles; a million of bayonets turn their remorseless points against the portentous sign! We Americans (I use the word in the broadest sense) we Americans see and hear all this, yet we remain strangers to each other, form no associations, and our communications are as tardy and as difficult as they are between the inhabitants of Africa and Asia. Even with Mexico, our nearest neighbor, we have no communication, except by a sea voyage, through a boisterous gulf, infested with pirates. The bill before you is intended to correct a part of this evil; it will make "straight the way" between the United States and Mexico; it will open an easy channel of communication between them, not for merchandise only, but for thoughts and ideas; for books and for newspapers, and for every description of travellers. It will bring together the two nations whose power and whose positions, make them responsible to the world for the preservation of the Republican system. And shall a measure of such moment be defeated by a parcel of miserable barbarians, Arabs of the desert, incapable of appreciating our policy, and placing a higher value upon the gun of a murdered hunter, than upon the preservation of all the republics in the world!

To the Indians themselves the opening of a road through their country is an object of vital importance. It is connected with the preservation and improvement of their race. For two hundred years the problem of Indian civilization has been successively presented to each generation of the Americans, and solved by each in the same way. Schools have been set up, colleges founded, and missions established; a wonderful success has attended the commencement of every undertaking; and, after some time, the schools, the colleges, the missions, and the Indians, have all disappeared together. In the south alone have we seen an exception. There the nations have preserved themselves, and have made a cheering progress in the arts of civilization. Their advance is the work of twenty years. It dates its com-

mencement from the opening of roads through their country. Roads induced separate families to settle at the crossing of rivers, to establish themselves at the best springs and tracts of land, and to begin to sell grain and provisions to the travellers, whom a few years before they would kill and plunder. This imparted the idea of exclusive property in the soil, and created an attachment for a fixed residence. Gradually, fields were opened, houses built, orchards planted, flocks and herds acquired, and slaves bought. The acquisition of these comforts, relieving the body from the torturing wants of cold and hunger, placed the mind in a condition to pursue its improvement.—This, Mr. President, is the true secret of the happy advance which the southern tribes have made in acquiring the arts of civilization; this has fitted them for the reception of schools and missions; and doubtless, the same cause will produce the same effects among the tribes beyond, which it has produced among the tribes on this side of the Mississippi.

The right of way is indispensable, and the committee have begun with directing a bill to be reported for that purpose. Happily, there are no constitutional objections to it. State rights are in no danger! The road which is contemplated will trespass upon the soil, or infringe upon the jurisdiction of no state whatsoever. It runs a course and a distance to avoid all that; for it begins upon the outside line of the outside state, and runs directly off towards the setting sun. The Congress and the Indians are alone to be consulted, and the statute book is full of precedents. Protesting against the necessity of producing precedents for an act in itself pregnant with propriety, I will yet name a few in order to illustrate the policy of the Government, and show its readiness to make roads through Indian countries to facilitate the intercourse of its citizens.

1. A road from Nashville to Natchez, through the Chickasaw and Choctaw nations, by an act of Congress of 1806—appropriation, \$6000.

2. A road through the Creek nation from Athens, in Georgia, to the 31st degree of north latitude, in the direction to New Orleans—act of 1806—appropriation, \$6,400.

3. A road from the Mississippi to the Ohio, through the northwest territory—act of 1806—appropriation, \$6,000.

4. Three roads through the Cherokee nation, to open an intercourse between Georgia, Tennessee, and the lower Mississippi, by treaty of 1805.

5. A road from Shawneetown to Kaskaskia—act of 1816—appropriation, \$3,000.

6. Repairing the road from Nashville to Natchez, within the Indian nations—act of 1816—\$7,920 appropriated.

7, 8, and 9. By acts of 1824, that is to say, at the last session of the present Congress, and by the same members to whom I now speak, and sitting in the same chairs in which they now sit, three roads were authorized to be made. One from the Chickasaw Bluffs, on the Mississippi, to Little Rock, in the territory of Arkansas—\$15,000 appropriated. One from Pensacola to St. Augustine—appropriation, \$20,000. One from the state of Ohio to Detroit—appropriation, \$20,000.

These instances are enough, in all conscience, to shew the readiness of the Government to open roads through Indian territories. But, in following out the road from Missouri to Mexico, a perverse circumstance intervenes; we are met in the way by the boundary line of the United States, and a road upon foreign territory is a novel subject of legislation in the American Congress. Mr. President, I had always been opposed to this boundary of 1819. I was opposed to it as a line inconvenient in itself, not adapted to the localities of the country, uncovering the flank of Louisiana, dismembering the valley of the Mississippi, cutting off a province to which our title was admitted, placing a foreign people upon

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the heads of our rivers, and giving them a right (under the law of nations) to navigate those rivers through the heart of Louisiana. For these reasons, and two more, which I have not enumerated, I had always been opposed to the boundary line of 1819; and I liked it still less when I found it a stumbling block in my road to Mexico, and a protecting barrier to the cruel Camanches who kill and rob our citizens. It is true, I could see no reason for not continuing the road with the consent of the Mexican Government, through the unoccupied territory of that power; but the novelty of the thing was appalling; and gentlemen might call for a precedent, although they should find it impossible to start an argument against it. Well, sir, I have a precedent; one which is strictly analogous, directly in point, up to the exigency of the occasion; one which needs not the bed of Procrustes to fit it to the case for which it is wanted. I speak of a road from Georgia to New Orleans, in the year 1807, under the administration of President Jefferson.

In the year 1806, the President had been authorized to open a road from the frontier of Georgia to the 31st degree of north latitude, in the direction of New Orleans. In the year 1807, he was authorized to continue the same road from the 31st degree to the city of New Orleans, under such regulations as might be agreed upon with the Government of Spain. The first part of this road lay through the territories of the Creek Indians; the second, through the dominions of the King of Spain. It is the prototype of the road from Missouri to Mexico. The two sections of the bill which we have before us, are nothing but transcripts, with a change of names, from the two acts of 1806-7. Here are the acts:

## ACT OF 1806.

"Sec. 7. That the President of the United States be, and he hereby is, authorized to cause a road to be opened from the frontier of Georgia, on the route from Athens to New Orleans, till the same intersects the thirty-first degree of north latitude: *Provided*, he shall not expend more than \$6,400 in opening the same."

## ACT OF 1807.

"Sec. 2. That the President of the United States is hereby authorized to cause a road to be opened from the thirty-first degree of north latitude to New Orleans, on the route from Athens to New Orleans, under such regulations as may be agreed upon for that purpose, between the Executive of the United States and the Spanish Government; and he is hereby authorized to expend, in opening the same, any part of the money heretofore appropriated for opening a road on the said route from the frontier of Georgia to the thirty-first degree of north latitude, which remains unexpended."

For a knowledge of this precedent, I am indebted to a conversation with Mr. Jefferson himself. In a late excursion to Virginia, I availed myself of a broken day to call and pay my respects to that patriarchal statesman. The individual must manage badly, Mr. President, who can find himself in the presence of that great man, and retire from it without bringing off some fact, or some maxim, of eminent utility to the human race. I trust that I did not so manage. I trust that, in bringing off a fact which led to the discovery of the precedent, which is to remove the only serious objection to the road in question, I have done a service, if not to the human family, at least to the citizens of the two greatest Republics in the world. It was on the evening of Christmas day that I called upon Mr. Jefferson. The conversation, among other things, turned upon roads. He spoke of one from Georgia to New Orleans, made during the last term of his own administration. He said there was a manuscript map of it in the Library of Congress, (formerly his own,) bound up in a certain volume of maps, which he described to me. On my return to Washington, I searched the statute book, and I found the acts which authorized the road to be made; they are the same which I have just read to the Senate. I searched

the Congress Library, and I found the volume of maps which he had described; and here it is, (presenting a huge folio,) and there is the map of the road from Georgia to New Orleans, more than two hundred miles of which, marked in blue ink, is traced through the dominions of the King of Spain!

With this triumphant precedent, I leave the fate of the bill to the wisdom and to the justice of the Senate.

Mr. CHANDLER put one or two questions on the subject, which were answered by Mr. BENTON, as to distances, &c. after which

The bill was, on motion of Mr. CHANDLER, laid over until to-morrow.

## HOUSE OF REPRESENTATIVES—SAME DAY.

Mr. ROSS, from the Committee on the Judiciary, reported a bill fixing the place for holding the Circuit and District Courts of the United States for the Southern District of New York; which was twice read, and ordered to be engrossed for a third reading on Monday next.

## PENAL CODE OF THE UNITED STATES.

The House then resumed the unfinished business of yesterday, being the bill further to provide for the punishment of crimes against the United States.

Mr. WEBSTER, having signified, that, in compliance with the suggestion of the honorable member from New Hampshire, (Mr. LIVERMORE,) he had divided the offences in the bill, into two classes; to the first of which only, the punishment of death was to be applied—

Mr. WICKLIFFE consented to withdraw the amendment which he had offered to the bill, premising, however, that he was not thereby to be understood as giving his consent that the punishment of death should be assigned to any of the crimes specified in the bill.

Mr. WEBSTER then proposed an amendment to the first section of the bill, so as to make the burning of any store, barn, or stable, a capital offence, only when such store, barn, &c. was parcel of a dwelling house, or mansion house; and to amend the second section of the bill, so that the burning of a light house, arsenal, magazine, rope walk, ware house, store house, block house, barrack, or any ship or vessel, should be punishable by fine and imprisonment.

The section respecting offences against underwriters, was slightly amended by inserting, after the word "person," the words "or body politic."

And, on motion of Mr. CALI, of Indiana, the 14th section of the bill was so amended, that, if there was no state prison or penitentiary, in the district where the offender is convicted, it shall be lawful for the court to imprison him in the nearest state prison or penitentiary in the limits of any other district. The vote upon this amendment was—Ayes 76, Noes 61.

On motion of Mr. FORSYTH, the 13th section, which provides that the trial of all offences which shall be committed on the high seas, shall be in the district wherein the offender is apprehended, or into which he may be first brought, was amended by adding, after the word "high seas," the words "or without the limits of any state or district of the United States."

Mr. LIVINGSTON, of Lou. then moved to strike out from the first section (respecting the burning of dwelling houses, &c. within any fort, dock yard, &c. belonging to the United States,) the words "shall be deemed guilty of felony, and shall, on conviction thereof, suffer death," and insert, in lieu thereof, the words, "shall be punished by fine, not exceeding five thousand dollars, and by imprisonment at hard labor for a term not exceeding 15 years."

In support of this amendment, Mr. LIVINGSTON went into an extended and eloquent argument—the heads of which alone we present, in a very succinct form.

He commenced by a deserved compliment to the

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learned chairman of the Judiciary Committee, for bringing forward the present bill, since, in the previous state of the criminal jurisprudence of the United States, there were many different places in which almost all crimes might be committed with absolute impunity. Some learned jurists, he knew, contended that the common law was in full vigor there as elsewhere. But, if so, it introduced a dreadful list of capital offences, and such a one as he hoped never to see recognized in this country.

The question now to be settled, he said, was one of grave and deep concern, namely, whether human life should be taken away as a punishment for the destruction of mere property; for such, in its present form, would be the effect of the provisions of the bill. He avowed it, as his solemn conviction, that it was not proper to take away human life as a punishment for any crime whatever. He had long and deeply reflected on this subject, and the result of his reflection he would now state, 1st, That society have the right to take human life when such an act becomes indispensably necessary for its security, but in no other case. Before adjudging capital punishment, it was therefore proper to inquire, first, whether the evil to be remedied is sufficiently great to warrant it; and, secondly, whether death be the most effectual remedy. As to the crime of arson, he acknowledged it to be of such a magnitude that, if nothing short of the punishment of death would put a stop to it, even death must be inflicted. But, he asked, might it not be prevented by a milder punishment? Had the experiment been tried? If so, had it proved ineffectual? Then, indeed, death must be resorted to. But, if not, the House was bound, in conscience, to make the trial.

He then inquired whether death was a better remedy than the infliction of penalties less severe. He referred to the gradual progress which had been made by all the states in the Union, in softening the features of their penal code. The long black list of 160 capital offences had, by degrees, been reduced in some cases to four or five. He lamented that, while this was the case, under the state Governments, the Code of the United States still retained as many as twenty different offences, punishable by death. He traced the progress of a similar mitigation in the laws of European Governments, and particularly those of England, and he expressed a hope that it might be continued until this country should merit the high eulogium bestowed upon the Roman Republic, that, of all nations, it had the mildest punishments. He referred to the doubts expressed by many great and wise men adverse to the right of taking human life at all, and then, considering the subject on grounds of policy merely, he proceeded to examine and to contrast the advantages and disadvantages attending the infliction of capital punishments. The general object of punishment was to prevent crimes; first, that of the criminal himself, and secondly, that of others. Death effectually secured the first point. The criminal capitally executed, could not repeat his offence. It also, in some degree, secured the second object by presenting to others a striking example, calculated to terrify the imagination and deter from crimes. The third and only additional advantage attending it was, that it was not so expensive as imprisonment. The disadvantages were, in the first place, that, in very many instances, it produced impunity. Such was the reluctance of witnesses, judges, and jurors, to convict when conviction was to be followed by the death of the accused, that he was too often permitted to escape; or, even if the evidence was such as to compel his conviction, a pardon interposed to prevent his punishment. On this head, Mr. L. remarked upon the multiplication of murders, and the comparative rareness of executions, and insisted that, if the punishment were lighter, punishment would be more certain. He applied this remark to the crime in question,

and he referred to a statement of the late lamented Mr. Bradford, made in the year 1795, showing that, although the burning of a dwelling house was made a capital offence by the laws of Pennsylvania, and the burning of other buildings was not so, yet, of all the buildings which had been destroyed by incendiaries, since the introduction of that distinction, by far the greater part were dwelling houses. The second disadvantage was the effect of the exhibition on the public mind. If frequently exhibited, it had one of two effects, either to give a ferocious character to our population in cherishing and strengthening those feelings which, in Rome, led to the exhibition of Gladiators, and in some Romish countries, of the *Auto da Fe*, or else it produced a total indifference. If rarely exhibited, the sufferer was by sympathy converted into a hero, his crime was forgotten, though of the deepest die. The clergy, induced by the best of feelings, gathered around him. The criminal was, or affected to be, impressed by the truths of religion, and he then became a saint—all eyes were fastened upon him—all hearts rejoiced in the triumphs of piety over the most obdurate heart: even the softer sex, forgetting their native horror of crime, flocked around him, administering every comfort; and the felon went forth to the place of execution, as to a triumph, followed by an escort that would not disgrace the most distinguished citizen. He asked whether such punishment could be expected to produce the desired effect? Instead of rendering the criminal detested, and his crime avoided, his crime was softened or forgotten, and he admired as a christian hero.

Mr. L. here read several extracts from an examination gone into before the British House of Commons, with express relation to this subject, and which concurred to prove that the punishment of death was, in England, attended by no beneficial impression whatever. Under the sanguinary code of that country, crimes, instead of diminishing, had multiplied, and, he believed, had even been more numerous in England since the time of Elizabeth, when there were sometimes as many as two thousand executions in a single year; on the contrary, he contended that, in proportion as the criminal code in this country had relaxed in rigor, crimes had been diminished; while, at the same time, murder, almost the only one excepted from the mitigation, was never more frequent in the United States than at the present time. He felt persuaded that solitary confinement, if properly conducted, would have a much more beneficial effect than the infliction of death. Let the dark cell of the criminal be marked by the inscription—“*Whoever enters here, leaves hope behind.*” or with this—“*Behold the doom which awaits one human being for the murder of another.*”

Another objection to the punishment of death was the unequal effect produced upon the convict himself. It was a punishment very different in its intensity, as inflicted on different persons. One condemned wretch received it as a blessing; another met it with perfect indifference; while another was perfectly excruciated by the sentence; and, though held to be the most equal of all punishments, it was, in truth, the most unequal.

There existed another disadvantage: this punishment once inflicted, was irrevocable; and, if inflicted wrongfully, admitted of no redress. A mistake might be discovered, but the sufferer was gone; the justice of society could not reach him. Mr. L. here dwelt upon the uncertainty of circumstantial evidence, the dangerous effect of public excitement, and quoted instances in which the offender, after being executed, was found to have been innocent. He inferred the probability of many other similar cases, which were not discovered, because there were few who took any interest in the investigation. Public justice was satisfied, and all farther inquiries slept with the convict in his grave. Had he been punished by imprisonment, the discovery of his in-

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nocence would have restored him to liberty, and himself and his family to their former standing. The power of the state might penetrate the dungeon; it could not penetrate the grave—it could not silence the upbraids of conscience, or stop the widow's tears. In reply to the argument that death had always been awarded as the punishment of murder, he answered, first, that the precedent was not binding; and, in the second place, denied its universality. During a great part of the Roman Republic, death was not inflicted as a punishment for any offence. There was no evidence, from history, that crimes were then unusually numerous. But, when capital punishments were afterwards revived, under the Emperors, every body knew that crimes were multiplied beyond all example. He would not say, however, that the effect had been the punishment of death for its cause. He insisted much upon the experiment made by Leopold, Duke of Tuscany, under whose authority capital punishments had been abolished in that Duchy for twenty years, during which time crimes were comparatively rare, and the prisons, at some periods, were literally empty; yet, at no greater distance than Rome, there occurred sixty executions in a period of six months.

Mr. L. insisted, with earnestness, that such examples called upon this nation to make a similar experiment. Mr. L. adverted to a case in N. Orleans where six friendless strangers had been executed on a charge of piracy, on the testimony of a witness who was afterwards proved to be perjured. The last objection urged by Mr. L. was, that, in evil times, men disposed to oppress their country, found, in the established use of capital punishment, an instrument drawn and sharpened to their hand. How often, in party contests, or civil wars, has the revolting spectacle been exhibited of judicial murders, (two terms the last that ought to be associated,) where the murderer was clad in ermine, and his victim suffered at noon day? Was it possible to look upon such a sight and be calm? Yet he did not seek to address the feelings of the House, or to invade that serenity that ought ever to accompany legislation. He again repeated that he well knew the practice of nations was against it, and that even our own example might be urged as a precedent. But we had begun to mitigate our code, and he asked whether we should go back, or should proceed in the work of improvement. He prayed the House to excuse his warmth on the subject. Nay, he was on the point of addressing the chair, as if it were a court, and this House as though they formed a grand jury. They were, indeed, a jury of the country, sitting to try no small or trifling cause, but a question which involved all the future accused at all the tribunals of the country—a question which demanded an appeal to the heart and the conscience; and he intreated gentlemen not to persevere in any course which their conscience condemned, because it might be sustained by the opinion of this or that distinguished man. Mr. L. closed by a quotation from Lord Coke, in which even that severe and harsh judge expresses the sentiment that if any person could see in a single field all the victims who have been executed in the course of a year, undergoing at one time the dreadful punishment of the gallows, he could not, if he possessed the smallest spark of humanity, but mourn over the spectacle and regret the necessity of such an expenditure of human life. He then, in a few words, assigned the reasons which induced him, contrary to his first intention, so to modify his amendment as to retain the word felony, and limit the amendment only to the mode of punishment.

Mr. DWIGHT, of Massachusetts, expressed the reluctance with which he said any thing in opposition to a speech which had done so much credit both to the head and the heart of the gentleman from Louisiana, but he could not perceive, although the gentleman had spoken much and eloquently against the infliction of death as a punishment for crime, how his general reasoning had any

special application to the present bill. It might be good reasoning against capital punishment in general, but, while such punishments were retained in our code, he could not see why the horrible crime of arson should be exempted from it. By the act of 1820, robbery committed on the high seas, and, by the act of 1804, the burning of a vessel on the high seas, were both punished with death. So was forgery of government securities or of the current coin, and, while these offences are capitally punished, on what imaginable ground should a felon be spared who sets fire to a dwelling house in the dead of night? He did not expressly assert that death was, in any case, indispensable as a punishment; but, if there was any thing which warranted the taking away the life of the offender, it was a crime which put in jeopardy the lives of so many of his fellow creatures. He did not think it was just to accuse the United States' Laws of being so much more severe than those of the individual States. The reason why the former contained a longer list of crimes was to be found in the nature and extent of the United States' jurisdiction; many of the crimes, capitally punished, being such as could only be committed against the United States. The laws of this country already deserved the encomium of which the gentleman had spoken, as being milder in punishment than those of any other nation.—The gentleman was mistaken in supposing that the list of capital crimes in England had been so far reduced; one hundred and sixty offences were still punished with death by the English law. Nor were there as many pardons as among us. He considered the argument of the gentleman from Louisiana as applicable rather to the manner in which capital punishments are conducted, than to the punishment itself. As to the difficulty of convicting, of which the gentleman had spoken, he did not know that it was any greater in respect to arson, than to the other crimes now capitally punished. Nor was the crime so much more difficult to be proved. The gentleman had said, that the punishment of death, once inflicted, was irremediable. But this was no more than might be said of all punishments. The act of punishment could not be recalled—and the consequences were often such as could not be changed. He had quoted the examinations which took place by order of the House of Commons, from which it appeared that the convicts often exhibited the most brutal insensibility. He thought, for his own part, that the lives of such men were not worth preserving to the state. What hope was there of men who could engage in playing bowls when they knew that they were just about to be executed? With respect to the instance he had quoted as having happened at N. Orleans, where six pirates had been condemned on the testimony of a perjured witness, he thought that the proper doctrine to be raised from the case, was not that piracy should not be punished with death, but that perjury should be. The case must certainly have been strong indeed, if the eloquence of that gentleman had failed to save the innocent. He should have thought it sufficient to persuade any tribunal to spare even the most guilty.

Mr. LIVERMORE, of New Hampshire, laid it down as a universal rule; that punishment should never be inflicted, when it could as safely be avoided; and when it was inflicted, should never be greater than was indispensable necessary. But when we had gone thus far, Mr. L. observed, we were met by the grand and fundamental principle, that society possesses the right to defend itself. Without this principle, all laws were but in vain, and there could be no such thing as social existence in such a world as this. In exercising this right, enough of severity must be employed to effect the end, viz: the common safety. He had been sorry to hear from the gentleman from Louisiana, arguments, which addressed themselves rather to the feelings, than to the understanding—arguments, all of which seemed to be in favor of the culprit, rather than of those who suffered by him. Ought not the gentleman to look at the other



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side of the picture? Ought he not to think of whole families, leaping in the dead of night from amidst the flames of their own dwelling? Ought he not to have favored the House with this picture, as well as with those which he had described so eloquently? Ought he not to direct his compassion to these innocent sufferers, as much as to the culprit? The gentleman had argued against the settled opinion of the whole world. It was needless to answer him, since he was already met by the arguments of all writers, and the experience of all legislators.

Mr. L. said he felt every respect for the name of Bradford, and considered the opinions of that excellent man as forming very high authority. But it must be remembered, that Bradford wrote, when, what might be called the Penitentiary mania was at its full height in Pennsylvania, and when that system was in the full tide of experiment. Experience had, since that time, every where shewn, that that system did not produce the expected results; and the current of public opinion was now running fast the other way. He must be permitted to correct an error of the gentleman from Louisiana, and to defend the cause of a virgin queen. It was not true that capital punishments had abounded so much in the reign of Elizabeth. On the contrary, her laws were far milder than those of the preceding reign. It was under Henry Eighth that human blood had streamed in such torrents, and it was computed that seventy-two thousand capital punishments had been inflicted in thirty-six years, making an average of two thousand executions in a year. The argument after all comes to a single point. The question is not whether we will now enact a new system of penal law, but simply whether we will relax the punishment for arson. He asked whether this was safe; he insisted on the necessity of securing the public safety. He dwelt on the dangerous nature united to the facility of the crime, and the impossibility of guarding against it, except by the terrors of a severe punishment. The bill, he insisted, created but a few capital offences, and these were such as every country punished with death. It did not enlarge, but diminish the previous number. He repelled the idea of abolishing it out of mercy to the criminal—insisted that the instances of mistaken condemnation were extremely few, and such as could not well be guarded against; that they did not happen more frequently with respect to this punishment than others; and that the argument, from the irremediable nature of the punishment, if it proved any thing, proved too much. No punishment could be completely recalled, and so none whatever must be inflicted! The disgrace of a public whipping could not be effectually removed, and there were men who would prefer death to the endurance of that disgrace. A man may be whipped through mistake, when innocent—but are we, therefore, to abstain from all punishment?

Mr. WEBSTER, of Massachusetts, said he had been instructed and gratified by the observations of the gentleman from Louisiana; but he put it to the candor of that gentleman to say, whether it was expedient to go at large into the discussion of a general principle, and then confine its application to one case. The principle was one on which there would be great diversity of opinion; which, if adopted, must alter many laws, and which could as well, and better, be discussed on a general bill, providing that where death is now prescribed, some other punishment should be substituted in its place, according to the different degrees of criminality involved.

If the general question must now be gone into at large, the measure itself must fail, and a bill so much needed would have to be postponed to another session. He should, therefore, abstain altogether from the general argument, and he hoped that the House would pass the bill, since its provisions did not go further, if so far, as laws already in force.

He replied to the cases of improper executions which had been cited by the gentleman from Louisiana. The person condemned in Vermont, had been convicted on his own voluntary confession of the murder; and though those who were executed in New Orleans might have been innocent of the crime of piracy, some of those who escaped punishment on that occasion, within less than six weeks, went out to sea and committed a murder on the captain of a vessel from Kennebunk.

Mr. LIVINGSTON rose in reply, and observed, that the opinion of the gentleman from Massachusetts would have great weight with him, was he not obliged, by the nature of the case, to settle the general principle before he could vote on the present bill. Gentlemen say, permit this bill to pass and the punishment of death to be inflicted, and afterwards discuss the general principle whether death should ever be inflicted. This is neither more nor less than asking me to be guilty of murder, since I think that death ought not to be inflicted at all. I cannot divide the question. I cannot say, let this bill go, and to-morrow I will inquire, nor can any others say so who entertain a doubt on the lawfulness of capital punishments. Mr. L. observed that he must have been greatly misunderstood, or honorable gentlemen certainly would not ask him to go in direct contradiction to the principles he had advanced. The gentleman from Massachusetts, (Mr. DWIGHT,) had said that it was not surprising that the United States' code should contain a longer list of capital crimes than the codes of the states, because its jurisdiction extended farther. This was not so. Until the present bill was introduced, it did not go so far. The divine law had been referred to, in which God says, whoso shed man's blood, by man shall his blood be shed; but to whom does God say this? To us? No. He says it to the Jews: and, though with that reverence it becomes us always to feel towards divine revelation, we must acknowledge that such a regulation was suitable for the Jews. It does not, therefore, follow, that it is binding on us. It might as well be said that we are bound to keep the passover. But, what was done in the case of the first murderer? Here we have a case on record.

Was death inflicted there as the punishment of murder? No! a mark was set upon the murderer, and he was turned loose, and when he expressed a fear of being killed by others, it was expressly told him that that mark should be his protection. Mr. L. disclaimed all intention to lessen the offence, or argue in favor of the offender. His arguments were only in favor of the expediency of a particular mode of punishment. He disavowed all intention of addressing the feelings of the House; denied that all books on the subject were against him; insisted that the experience of legislation, so far as it went, was in his favor; and, in reply to the argument of Mr. LIVERMORE, he professed himself as much opposed to whipping, and to all punishments which were irremediable in their nature, as he did to the punishment of death. Imprisonment was remedial. The prisoner might be released, and his sentence reversed. He again asked why must death be retained, entreated for an answer, and said that, if any gentleman would give him a good and sufficient reason, he should be satisfied. He did not feel the force of the argument which said that, because there were twenty cases of capital punishment, therefore there must be twenty-one. Arson was a crime which, in general, could only be proved by circumstantial evidence, and on such evidence men would not convict the offender if death was to follow; but they would if a milder punishment was substituted for it. It had been said that arson was punished by death in all the states. He had examined that point, and found that in eleven states out of the twenty-four, this was not the case, and even where it was punished by death, in most instances there was a proviso requiring that some person should have lost their life in conse-

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quence of the burning. None could feel a greater horror of the crime than he did; but the question to be determined was, shall this House, because the crime is great, inflict a punishment improper in its principle, and uncertain in its effect?

Mr. COOK, of Illinois, moved to amend the amendment of Mr. LIVINGSTON, by striking out the fine of five thousand dollars, and substituting a fine not exceeding the cost of prosecution, and he supported the amendment, on the ground that experience had convinced him, that where fine is united with corporeal punishment, the effect is to punish the innocent family of the offender, or, by inducing fraud, to involve others in his crime. Where no fraud succeeded, and the crime took effect, and absorbed the property of the delinquent, he found himself, on coming out of prison, in a situation calculated to lead him to new crimes.

Mr. C. went into some general remarks in opposition to capital punishments, and thought that, of all countries, this presented the most favorable opportunity for the experiment of the dispensing with them altogether.

Mr. LIVINGSTON approved of the ground taken by the gentleman from Illinois, and adopted his amendment as a modification of his own, and the question then being on the amendment as modified,

Mr. KREMER, of Pennsylvania, observed, that nothing but a strong sense of duty would induce him, at this late hour, to trouble the House. He thought that in a question of this kind, all feeling ought to be avoided, and he wished that the gentleman from Louisiana had not addressed the House in so eloquent a manner in behalf of the criminal suffering death. As to the question of policy there could be no doubt. The case was perfectly clear. The experience of every country and every age had declared it, and should we not profit by that experience? The gentleman himself says that there was a time when the capital punishments in other countries were as few as they now are in our own. Why then have they been increased? Because they have been found unavoidable. As to the right of society it is most clear. The individual makes war against the community, and the country treats him as they would treat any other enemy.

As to the objection from persons sometime suffering innocently, it might as well be said that you must not have a razor to shave your beard, because, forsooth, you might by chance cut your throat. What does the penitentiary system after all amount to? Experience had demonstrated that it produced a school for crime.

Profligates were collected from every corner of the country, and shut up in one jail, and thus came out greater villains than they went in—they scarcely got home, before they committed new crimes. He quoted the instance of a man in Pennsylvania who had been pardoned out of the State Prison, who exhibited his pardon in triumph all along the road, and, before he reached his home, committed the same crime for which he was put in. He believed the system to be founded in a mistaken feeling of humanity towards the wrongdoer. The gentleman from Louisiana has, indeed, told us that, as the thing is conducted in this country, hanging is quite a frolic, and that the criminal goes off like a saint. This surely was a strong argument for multiplying capital punishments, because we have not too many saints.

The question was then taken on the amendment, and lost; and after a little further conversation between the Chairman of the Judiciary Committee and the gentleman from Louisiana,

The House adjourned.

IN SENATE.—WEDNESDAY, JANUARY 26, 1825.

The Senate proceeded to the consideration of the bill to authorize the President of the United States to cause

to be marked out a road from the line of the state of Missouri, to the confines of New Mexico.

On motion of Mr. LLOYD, of Mass. to strike out the second section of the bill, (which provides for marking out that part of the road in the Mexican territory.)

Mr. CHANDLER said, that he had not yet been satisfied that Congress had a right to take the money from the pockets of the people of the United States, to lay out or expend in what is termed internal improvements, that is, to make roads and canals within the limits of any state in the Union. Gentlemen may tell me that this proposition does not come within the objection, as it is without the limits of any state; true, from five to seven hundred miles of the contemplated road are within the limits of the United States, and probably at least three hundred miles of it, not only without the limits of any state, but out of the limits of the United States, and within the territory of another power, to wit, that of Mexico. As I before observed, I have never been able to find, in the constitution of the United States, authority given to Congress to lay out and make roads within the limits of any state in the Union, and there would, at least, be as much difficulty in finding authority for taking the money of the people, and therewith to mark out or survey roads within the dominions of another sovereign power. By the bill, sir, I perceive that we are to provide by treaty with the Indians, for the right of passing unmolested through the territory which they inhabit, and if those Indians should afterwards prove refractory, or take it into their heads to refuse us a passage through the country which they inhabit, why then, I suppose, we must submit to their caprice, or make war upon them, within the territory of Mexico. For, I presume, the line of this road will not be the line which divides that part of the country which is inhabited by Indians, from that which is not; nor is it probable that the line between the United States and Mexico will divide the country which is occupied by the Indians from that which is not. Viewing the whole subject as I do, sir, I must be better satisfied of the propriety of the measure than I now am, or I cannot vote for the bill.

Mr. BENTON observed, he could answer the gentleman's objection with great ease. They were only going to treat with the Indians within the territories of the United States, and afterwards mark out the road through the Mexican territories, with their consent.

Mr. LLOYD, of Massachusetts, asked, whether it would not be acceptable to the honorable mover of this bill, to limit the intended road to the boundary of the United States? There was a very great difference between making a road in our own territory and in that of another power, even with their own consent. He thought there was a strong impropriety in making roads for other people. However, he wished no argument on the subject, but would move to strike out the second section of the bill.

The second section is as follows:

"And be it further enacted, That the President of the United States be, and he hereby is, authorized to cause the marking of the said road to be continued from the boundary line of the United States to the frontier of New Mexico, under such regulations as may be agreed upon for that purpose between the Executive of the United States and the Mexican government."

Mr. LOWRIE said, if this appropriation could be asked for at all, it was on the ground of protecting the commerce of the United States; and if that principle were admitted, it would require some ingenuity to show why an appropriation, which was to be expended beyond the territory of the United States, should not be made to the West, when so much was doing, and had been done, for the East? He adverted to the sums annually expended in keeping a fleet in the Mediterranean for the protection of commerce; and mentioned, as a case strongly in point, the negotiation opened by the Executive, during

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the last summer, with foreign governments, respecting the erection of a light-house on one of the West India islets.

Mr. BARTON said, this bill amounted to nothing more than a declaration by Congress of a power exercised by the President of the United States in the case just mentioned. The duty and the power of the Executive will remain precisely the same; as the bill merely requests the President to cause a thing to be done, under certain regulations, which he had the power to do without the request. He could see nothing in this section incompatible with the rights or dignity of the government.—He hoped, therefore, the section would not be stricken out.

Mr. HOLMES, of Maine, thought there was no constitutional objection to the proposed measure, as the government might, if they thought proper, make a road in the territory of a foreign power, as well as within our own, provided they obtained the consent of that power. The Mexican government were equally interested with the United States in the prosperity of this trade, and therefore, if they thought it worth their while, they would and ought to do their part. It would be sufficient if we were to mark out the road to the boundary line, and let them meet us there. We were, in his opinion, a little premature in offering to mark out a road through the whole line, in their territory as well as our own, and then to ask for permission to mark it out beyond the boundary. The Mexican government must be aware of the value of the trade, and if they did not choose to meet us, it would be a fair presumption that they did not want to trade with us. He should, therefore, vote for the amendment.

Mr. VAN BUREN thought that the government was called upon to afford the same protection to these people, who were engaged in a foreign trade, that was extended to those of the other parts of the Union. The only questions were, whether this trade existed, and whether it was a trade according to the laws and Constitution. If so, they have a right to call on the government for protection; provided, it could be given without infringing on any rights. The means proposed were, to mark out a road, and treat with the Indians for a safe passage. The motion to amend the bill was founded, he thought, on a mistaken view of the subject. It was not to *make* a road, that the appropriation was asked for, but to *mark out*, merely, the way the traders should go. This was to be done by negotiation with the Indians on this side of the line, and by negotiation with the Mexican government, on the other side; and the appropriation of \$30,000, was for this purpose. He did not apprehend, therefore, that any valid objection could exist. They were not going into a foreign country to make a road, but to treat with the Indians, and mark the way they should travel.

Mr. MACON did not think this a matter of great importance. Most of the estates, said he, in my part of the country, were originally made by trading with the Indians, and that trade was carried on by traces; but we have got grander than our ancestors, and can't trade with the Indians now without roads being made. I don't care, said he, for precedents; if they are good, I am willing to follow them; if not, I won't regard them. They are, generally, good or bad, as they happen to suit or oppose our wishes. The case of the road made by Mr. Jefferson, was among Indians comparatively civilized, who had some notions of property: but the road proposed now to be marked out, would pass through tribes perfectly wild, who, as soon as they see a white man, think of nothing but to fight and kill him, if they are able. There was nothing that could be secured by negotiating with these wild and savage people. Make what bargain you please with them, they will continue to commit depredations on your traders, whenever they see a good opportunity. It would, therefore, do no

good to treat with them. As to the Spaniards, with whom this trade was carried on, Mr. M. said, they may have a great deal of money, but, generally, money and knowledge went together; and, though he could not say any thing of their character himself, the description given of them, yesterday, by the gentleman from Missouri, was not very favorable. But, Mr. M. said, as the friendship of these Indians could not be bought, he thought it would be safer for the traders to go through their country by different routes, than to have but one, which would give the Indians the best opportunities for ambush, and committing depredation and murder.

Mr. JOHNSON, of Kentucky, said that he was always happy to have his worthy friend from North Carolina, (Mr. MACON,) with him in any measure of legislation.—He recollected that, during the session, his friend had supported him in a very important proposition, and he should not forget the delight which he experienced in having with him a member so distinguished for long services and integrity of principle. On this occasion, he had entertained some hopes that the gentleman from North Carolina would agree to appropriate \$10,000, to find out the best and most direct route for the enterprising citizen of the West to pursue his trade to Santa Fe, and the western parts of Mexico, when the West had never hesitated to vote for any measure which was necessary to protect the lives or property of our sea-faring citizens. Do you call for fortifications? We vote the money to make them. Do you want an increase of the Navy, to secure our commerce upon the high seas, and to secure our seaboard in case of war? We grant the sum necessary to accomplish the object. Do you want additional sloops of war, and additional means, to suppress piracy? We give the money, till the Executive government says "enough." You have asked for \$500,000 this year, to suppress piracy in the West Indies: we are ready to give it. We ask for \$10,000, to facilitate our trade with Santa Fe, and to take measures to secure our enterprising citizens in their lives and their property while pursuing that lucrative and important trade. The pirates in the West Indian seas are stealing the property of our citizens, and murdering the officers and crews of your merchant vessels, without regard to age or sex; and annually, upon our interior and territorial frontier, our citizens are murdered by the natives of our forests. Every blast which crosses the great mountains of the Alleghany, brings the groans of the dying enterprising trader of the West, murdered by the Indian. Do not our citizens stand upon an equality, whether they be upon the high seas, or in the great American desert, extending to the Rocky Mountains? I feel the same indignation, whether I see the hands of the pirate, or the hands of the savage of the wilderness, imbrued in the blood of our fellow citizens. I feel the same indignation, whether that citizen be a hardy tar of the ocean, a citizen of the Rocky Mountains, or a resident of this metropolis. Another view is presented to my mind: we have many objects of national expenditure in the West, and it is the duty of Congress to make annual appropriations, out of the funds of the government in the West, towards those objects—additional military posts should be established—the Cumberland road should be extended to Missouri—a western armory should be erected, and a military armory should be established in some part of the Western states. I hope Congress will not forget the provision in the constitution, as to the regulations of commerce with foreign nations, among the several states, and *with the Indian tribes*. While we build our ships of war, erect fortifications, and appropriate millions for the security of commerce and defence of our maritime frontier, we ask the sum of \$10,000 for a great and important object of internal trade, and the security of those concerned in it in the Western country. Can this appropriation be denied to us? I presume it cannot. We have done nothing more than our duty, in

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doing all we have done for foreign commerce, and for the security of our maritime frontier; nor can we refuse what is necessary for the commerce and security of the West.

Mr. MACON replied, that the case of the light-house, in the West Indies, could hardly be called a precedent, that it was not done by authority of Congress. As to the expense of protecting commerce in the West India seas, from pirates, &c. Mr. M. said, it was as much for the benefit of the people of the Western States, as of any other part of the Union, as the products of the West were necessarily transported through those waters, and the people who furnished the cargo, were as much interested in the safety of the commerce, as the owner of the vessel, &c.

Mr. KELLY, of Alabama, said, he trespassed with great reluctance on the attention of the Senate. The great object of the bill is to cherish and foster a commerce already in existence, between the American and Mexican republics. That commerce, to be mutually beneficial, must be regulated and protected, and placed upon a footing of safety and reciprocity by the respective governments. This commerce must be carried on by land, through several Indian tribes. To be safe, a road must be had, a right of way, or a *trace*, if you please, secured. To answer the object, this trace must pass the boundary of the United States, and extend for several hundred miles through the wilderness country, in the Mexican republic, to the settlements with whom the traffic must be carried on. Now, sir, to stop the "*trace*" at the boundary of the United States, would leave this intervening Mexican wilderness to obstruct the proposed intercourse. Why should this be left? I cannot agree, said Mr. K. with the gentleman from Maine, (Mr. HOLMES,) that we have done enough in going to our own boundary, and that we may leave the balance to the Mexican government. It may be well to remember that the Mexican government is in the germ of its existence, struggling with difficulties that we have long since surmounted; and, without intending any disrespect to the population of Mexico, we may say, in the most friendly manner, that they are less intelligent in commercial matters than we are; and, although, to us, the advantages of this commerce are clear and obvious, they may not be so to them; and, however reasonable the calculation may be that they will meet us at the boundary line, and mark the trace through their own territory, I cannot help feeling some doubt, myself, that they may fail to do so as promptly as the commerce in question requires it should be done. It occurs to me, then, as the most rational mode of legislating on this subject, to approach the Mexican government in a language best of all calculated to obtain promptly the object in view. It may be true, as stated by the gentleman from North Carolina, (Mr. MACON,) that, in days of yore, many persons made fortunes by traffic with the neighboring Indians, when they had to trudge along "a trace;" and, although this be true, as a fact, I am still willing to travel on a road, when I can find one; and this, it seems to me, may be done by the men of the present day, without incurring the charge of irreverence to their ancestors. And, although this traffic may have been thus profitable, without the aid of government, I am confident it would have been on a better footing if it had been under the protection of the government. I have no idea that Indian depredation is to cease on the establishment of this trace, but I believe that less blood will be shed, and less property plundered, under proposed regulations by the government, than it can be if left to unaided individual enterprise.

Mr. TALBOT thought, that, if the section were struck out, the effect of the bill would be destroyed. He argued to shew that it would be far better, before commencing the road, to enter into negotiation, and arrange every thing with the Mexican government; because, if

the United States were to adopt a route, and do their part without an understanding with the other government, the route might not be located to please the Mexican Government, and the money expended would be wasted. Why not retain the section that authorized the negotiation with the Mexican Government for every thing that was required?

Mr. SMITH thought that the advantages of this commerce might be held out to the Mexican Government, and when they found that they could get their goods on more reasonable terms, they would be induced to join with the United States in making this road. He should vote for the bill, but from a different view of it from that taken by his friend from Kentucky, (Mr. JOHNSON.) Mr. S. thought that sufficient occasions for expending the public money always presented themselves, without seeking them; he repelled the assertion, that the interest of the Eastern States had always been preferred to that of the West—and asserted that the Eastern members voted for all the measures beneficial to the people of the West. He cited many great objects of expense: the Cumberland Road; the military works at Mackinaw, and on the Lakes, &c. to shew that the interests of the West were not neglected. He did not like the argument that went to prove that one part of the Union was hostile to the other. The only question with him was, whether commerce could be carried on there to advantage, and, as he was satisfied it could be, he should vote for the bill.

Mr. BROWN was very glad to hear such sentiments fall from the honorable gentleman, and hoped that a reciprocal good feeling would always exist. He thought there could be no objections to the bill, and approved the proposition to treat with the Mexican Government. He differed from his friend from North Carolina, (Mr. MACON,) This was something more than Indian trade, and it did not at all follow that, because, in former times, large fortunes were made by the Indian trader, who had traces, that no road should be marked out now.

Mr. LLOYD, of Massachusetts, had been very much misunderstood if he had been supposed to make the motion with feelings hostile to the bill—he was in favor of it—the mere trifle of money proposed, was nothing—he was opposed to the principle of laying out money in the territories of a foreign power. If it were for the mutual advantage of both parties, the Mexican Government would of course be as ready as we were; but, if it were not, then they would not suffer us to enjoy it. As to the expenditures made for the protection of commerce on the ocean, Mr. L. said it was for the benefit of all—it was not a local interest. The only way that the revenue was procured, was by commerce, and it was the duty of the government to afford it every protection in its power. He should be pleased to see the road opened; it would pass through a most fertile country, and opened a communication between, as the gentleman expressed it, two of the most splendid republics in the universe.—Would not the Mexican Government, having a population of seven millions of souls, and gold and silver mines at command, furnish \$3000 for her share? Yes, if the project pleased them, they could give five hundred times as much; and, if they did not like it, that was another consideration. If the gentleman would alter the phraseology of the bill as Mr. L. had suggested, he would vote for it.

Mr. BENTON was well aware of the weight of the objection urged by the honorable gentleman from Massachusetts, and he was satisfied also that the gentleman was not influenced by pecuniary motives. It was naturally a question of policy, and a subject to which his attention had been previously turned by the precedent he had yesterday cited in justification of the section proposed to be struck out. Although this proposition went by the name of a road, yet, Mr. B. said, it was not so in fact; all that was proposed to be done, was to cast up

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mounds of earth and sand, and pyramids of stones, to mark out the way. Without a figure, they might be called light-houses; for they were, in point of fact, guides to the passenger. The present measure differed from the act of 1807, authorizing a road to be opened through Florida in two points: that road went through the settlements belonging to the King of Spain, and was a road, properly speaking; this was merely a track, and passed only through the unoccupied parts of the Mexican territory. It was argued that, if this trade were beneficial to the people of Mexico, they would meet us half way; but it was very easy to imagine a trade that was more beneficial to one party than another. We, said Mr. B. are the carriers, and it is we who have need of the road to travel upon; but it is idle to expect that these people will make roads; they are blinded by ignorance. As an instance, he mentioned that the Province of New Mexico has been established for more than 150 years. The commerce between Mexico and Santa Fe is carried on by means of mules; the journey there and back occupies five months; and, during the whole period mentioned, has passed but by one route; yet it is a fact, that, on this whole route, there is not such a thing as a bridge, except such as are composed of poles put side by side, such as only our dogs would cross, and such holes were suffered to exist in them, that our men, and even our dogs, would be in danger of breaking their legs. If, then, for so many years, they have not thought it worth while to make a better road for this valuable branch of commerce, how are we to expect them to co-operate here? We are not to expect any thing more from them than the privilege to mark out the way.

The question was then taken on striking out the second section, and negatived—ages 15, noes 23; and the bill was ordered to a third reading, by the following vote:

YEAS.—Messrs. Barton, Benton, Boulogny, Brown, D'Wolf, Eaton, Edwards, Elliott, Holmes, of Miss. Jackson, Johnson, of Ken. Johnston, of Lou. Kelly, Knight, Lanman, Lloyd, of Mass. Lowrie, McLivaine, McLean, Noble, Palmer, Parrott, Ruggles, Seymour, Smith, Talbot, Taylor, Thomas, Van Buren, Van Dyke.—30.

NAYS.—Messrs. Branch, Chandler, Clayton, Cobb, Gaillard, Hayne, Holmes, of Maine, King, of Ala. King, of N. Y. Macon, Tazewell, Williams.—12.

#### HOUSE OF REPRESENTATIVES—SAME DAY.

##### RULES FOR PRESIDENTIAL ELECTION.

Mr. WRIGHT, from the Select Committee appointed to prepare rules to be observed in case the election of President and Vice President shall devolve on this House, made the following report:

The committee appointed "to prepare and report such rules as, in their opinion, may be proper to be observed by this House, in the choice of the President of the United States, whose term of service is to commence on the fourth day of March next, if, on counting the votes given in the several states, in the manner prescribed in the Constitution of the United States, it shall appear that no person has received a majority of the votes of all the Electors of President and Vice President, appointed in the several states,"

##### REPORT:

That the following Rules be observed by the House in the choice of a President of the United States, whose term is to commence on the fourth day of March, 1825, if the choice shall constitutionally devolve upon the House:

1st. In the event of its appearing, on opening all the certificates and counting the votes given by the Electors of the several states for President, that no person has a majority of the votes of the whole number of Electors appointed, and the result shall have been declared, the same shall be entered on the Journals of this House.

2d. The roll of the House shall then be called, and, on its appearing that a member or members from two-thirds of the states are present, the House shall immediately proceed, by ballot, to choose a President from the persons having the highest numbers, not exceeding three, on the list of those voted for as President; and in case neither of those persons shall receive the votes of a majority of all the states on the first ballot, the House shall continue to ballot for a President, without interruption by other business, until a President be chosen.

3d. The doors of the Hall shall be closed during the balloting, except against Members of the Senate, and the Officers of the House; and the Galleries shall be cleared on the request of the Delegation of any one state.

4th. From the commencement of the balloting until an election is made, no proposition to adjourn shall be received, unless on the motion of one state, seconded by another state; and the question shall be decided by states. The same rule shall be observed in regard to any motion to change the usual hour for the meeting of the House.

5th. In balloting, the following mode shall be observed, to wit:

The Representatives of each state shall be arranged and seated together, beginning with the seats at the right hand of the Speaker's Chair, with the Members of the state of Maine, thence proceeding with the Members from the states in the order the states are usually named for receiving petitions, around the Hall of the House, until all are seated; A ballot-box shall be provided for each state;

The Representatives of each state shall, in the first instance, ballot among themselves, in order to ascertain the vote of their state, and they may, if necessary, appoint tellers of their ballots;

After the vote of each state is ascertained, duplicates thereof shall be made out, and, in case any one of the persons from whom the choice is to be made, shall receive a majority of the votes given, on any one balloting, by the Representatives of a state, the name of that person shall be written on each of the duplicates; and, in case the votes so given shall be divided, so that neither of said persons shall have a majority of the whole number of votes given by such state on any one balloting, then the word "divided" shall be written on each duplicate;

After the delegation from each state shall have ascertained the vote of their state, the Clerk shall name the states in the order they are usually named for receiving petitions; and, as the name of each state is called, the Sergeant-at-Arms shall present to the Delegation of each, two ballot-boxes, in each of which shall be deposited, by some Representative of the state, one of the duplicates made as aforesaid, of the vote of said state, in the presence, and subject to the examination, of all the members from said state then present; and, where there is more than one Representative from a state, the duplicates shall not both be deposited by the same person;

When the votes of the states are thus all taken in, the Sergeant-at-Arms shall carry one of the said ballot boxes to one table, and the other to a separate and distinct table;

One person from each state, represented in the balloting, shall be appointed by its Representatives to tell off said ballots, but in case the Representatives fail to appoint a teller, the Speaker shall appoint;

That said tellers shall divide themselves into two sets, as nearly equal in number as can be, and one of the said sets of tellers shall proceed to count the votes in one of said boxes, and the other set the votes in the other;



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When the votes are counted by the different sets of tellers, the result shall be reported to the House, and if the reports agree, the same shall be accepted as the true votes of the states; but if the reports disagree, the states shall proceed, in the same manner as before, to a new ballot.

6th. All questions arising after the balloting commences, requiring the decisions of the House, which shall be decided by the House voting per capita, to be incidental to the power of choosing a President, shall be decided by States, without debate; and, in case of an equal division of the votes of states, the question shall be lost.

7th. When either of the persons from whom the choice is to be made, shall have received a majority of all the states, the Speaker shall declare the same, and that that person is elected President of the United States.

8th. The result shall be immediately communicated to the Senate by Message; and a committee of three persons shall be appointed to inform the President of the United States, and the President elect, of said election. The report was read and ordered to lie on the table.

#### UNITED STATES' PENAL CODE.

The House then proceeded to the unfinished business of yesterday, which was the bill making further provision for the punishment of crimes against the United States.

Mr. LIVINGSTON, of Lou. moved to amend the bill as follows:

[The amendment of Mr. LIVINGSTON proposes to strike out the 18th, 19th, and 20th sections of the present bill, and to insert in lieu thereof several other sections, the object of which were, to define the crime of *forgery*, and provide for its punishment by confinement at hard labor not less than seven, nor more than fifteen years, and to provide for the punishment of the various modifications of this offence, and guarding against the evasion of punishment by technical exceptions. The general purpose of the bill was to substitute imprisonment at hard labor, in lieu of death, as the punishment for forgery.]

In support of the above amendments, Mr. LIVINGSTON observed, on the general subject, that it had been held by some that forgery was an offence, in England, by the common law. He doubted this, however: since, as early as the reign of Richard II. a statute was passed on the subject, and, before that time, the practice of writing was comparatively rare, and written instruments but few. And, from the reign of Richard II. to that of Henry VI. the statute provision was confined to the forgery of public records. From the days of Elizabeth to the present time, they have been constantly multiplying, till they now amounted to sixty at least. The reason of this multiplicity was, that the statute law, instead of giving a definition of the crime, was occupied in describing the objects forged—and, as these multiplied with the progress of society, the statutes multiplied with them. The United States, he regretted to say, had imitated this bad example, and gone into a similar course of vicious legislation. This course was begun by the statute of 1789, which related to *indents*, and which punished the forgery of them with death. Then came the statute against the forgery of bank notes; and, although this crime was so much more frequent than the forgery of Government securities, and, on that account, so much more dangerous to society, it was punished by imprisonment only. The bill on the table belongs to the same species of legislation. It gives no general definition of the crime, but a long enumeration (made, he acknowledged with great deliberation and care) of the instruments for the forgery of which it provides punishment. But, if, in this enumeration, however careful, a single instrument has been omitted, then a new statute will be needed to punish the forgery

of that instrument; and, if another shall be discovered to have been omitted, then there must be another statute. He objected to this whole course, and thought it far preferable that the crime should be defined and punished by one general law. The amendments had been printed and had laid on the tables of the members for many days. They had been examined and approved by several of his friends, and ought not now, therefore, to be viewed as a mere novelty of his. Mr. L. then went into a particular review and explanation of the amendments he had proposed—insisted that the definition by which they limited the crimes, comprehended all that ought to be punished—was calculated to save many statutes—prevented equivocation—provided for the forgery of patents, sea letters, certificates, and attestations, transfers of stock, transfers of deposits, &c. &c. Having gone very fully into this explanation, (but in a manner which no report can render fully intelligible without a constant reference to the various clauses of the amendments proposed,) he appealed to the House whether a law of this description was not eminently desirable. He then explained that part of the amendments which prescribes the punishment of the offence, and lastly, that part of them which relates to the mode of prosecution; and, under this division of the subject, he took occasion to remark on the wide diffusion of this crime in society—the great temptation which existed to commit it, and its alarming increase in modern times. He insisted on the necessity of rendering its punishment certain: the offender must be made to know that he had no possible escape. An extensive practice had convinced him, that there existed among offenders, more hope of escape in relation to this crime than almost any other. They trust to chicanery and hope to the last, that there will be some flaw in the indictment, or some legal quibble, by means of which they may get free. One great object of the amendment was to remove this hope and utterly annihilate it. It avoided all defects in the legal description of the instrument forged, by simply annexing a copy of the instrument to the indictment, and it required the accused and his counsel to state every technical objection to the form of proceeding, the day before the trial, precluding, at the same time, the pleading of such objections in arrest of execution, after conviction by a jury. Having gone through his observations, explanatory of the several features of the amendments he had proposed, Mr. L. remarked, in conclusion, that, from what had passed yesterday, he was led to doubt whether the House was now prepared to give the amendments that mature consideration to which, in his opinion, they were entitled.

He should not feel the same fear at any other time—for he had been led to observe, that once in about four years, there occurred a singular meteorological phenomenon in the atmosphere of this House, which indisposed gentlemen to every subject which required close and patient investigation. It usually continued from the beginning of January to the latter end of February, and he felt unwilling during that interval, to press the farther consideration of the subject he had brought under the form of an amendment to the present bill. He had thought it was proper to bring the subject forward, and give it the explanation he had done, being convinced, from the experience of not a short life, that truth would always prevail sooner or later. The people of the United States would see the proposition, and would hear something of the reasoning by which it was supported. They would not, he hoped, be altogether without effect. And should the confidence of his constituents be continued to him for two seasons longer, he hoped to bring forward, (and he wished to be considered as pledging himself to that effect,) a general system of penal law for the United States.

Mr. WEBSTER rejoined in the assurance just given by the gentleman from Louisiana, that he intended to

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*United States Penal Code—Powers of the Supreme Court.*

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bring forward a general system of criminal law; he said he considered no man as more fit, from his long attention to the subject, to undertake such a task; and he hoped that gentlemen would remember that his words had created an expectation on this subject, which it would be his duty to realize. He should, in the mean while, abstain from entering into any discussion on the amendment now before the House, inasmuch as it must be apparent that it proposed a new principle and a new practice in an important branch of criminal law; and would require a much more extended consideration than could now be given to it. He would observe, however, that the definition of the crime of forgery, as given by the gentleman, appeared to him to be very exact; yet, he thought he could see great difficulty in adopting the plan proposed, arising from the limited power of the General Government.

The question was then taken on Mr. LIVINGSTON'S amendments, and decided in the negative by a large majority.

Mr. LIVERMORE, of New Hampshire, then offered, as an amendment, a new section to the bill, the effect of which was to require that the name and conduct of the convict suffering imprisonment under the act, should, from time to time, be reported to the President of the United States, who should have power to shorten the term of confinement as the good conduct of the prisoner might appear to him to merit.

Mr. LIVERMORE supported this amendment by a few remarks, in which he expressed his unwillingness to exclude the last ray of hope even from a prison. He thought that it was proper to preserve to the convict some little expectation that, if he was submissive, and behaved himself properly under his punishment, the President would remit something of its extent. He did not know that, at present, that officer, though he has power to pardon, has any authority to lessen the punishment of a criminal not pardoned. If any motive could induce a prisoner to deport himself with propriety, he thought that such a hope as this amendment held out was calculated to do it. He should not, however, delay the bill, and, unless there was an acquiescence on the part of the House, he should withdraw the amendment, rather than occasion any debate.

Mr. WEBSTER entirely approved of the principle of the amendment, but apprehended, as the United States have no penitentiaries of their own, some difficulty might arise from the introduction of new rules in a penitentiary, borrowed from one of the states.

Mr. LIVERMORE replied, in a few words, and the question being taken on the amendment proposed by him, it was decided in the negative.

The bill, as amended, was then ordered to be engrossed and read a third time on Friday next.

Mr. FORWARD, of Penn., then moved, that the House go into committee of the whole, on the bill laying a duty on sales at auction. The motion was negatived—ayes 54, noes 86.

#### POWERS OF THE SUPREME COURT.

On motion of Mr. LETCHER, of Kentucky, the House then went into committee of the whole, on the state of the Union, and took up the resolutions moved by Mr. L. at the last session, as follows:

*Resolved*, That provision ought to be made by law, requiring, in any cause decided by the Supreme Court of the United States, in which shall be drawn in question the validity of any part of the constitution of a state, or of an act passed by the legislature of a state, that — Justices shall concur in pronouncing such part of the constitution, or act, to be invalid; and that, without the concurrence of that number of said Justices, the part of the constitution, or act of the Legislature, (as the case may be,) so drawn in question, shall not be deemed or holden invalid.

*Resolved*, That the Justices aforesaid, in pronouncing their judgment, in any such cause, as aforesaid, ought to be required by law to give their opinions, with their respective reasons therefor, separately and distinctly, if the judgment of the Court be against the validity of the part of the constitution, or act, drawn in question, as aforesaid.

*Resolved*, That the Committee on the Judiciary be instructed to report a bill, in conformity to the preceding resolutions."

Mr. T. P. MOORE, of Kentucky, rose in support of the resolutions. He said that he was sensible that, in approaching the object of the resolutions of his colleague, the first impression he should be likely to encounter would be a belief that he was not penetrated with sufficient respect for the constitution under which we live; that he desired to impair its powers, to narrow its dominion, to disturb the just equilibrium which has been wisely established between it and the states of which our system is composed. If this impression were just, said he, it would greatly discourage, if it did not completely defeat me. But, Mr. Chairman, my object, as well as that of my worthy colleague, (Mr. LETCHER,) is a very different one—it is to preserve and perpetuate the constitution. It is to support and fortify the great principle, the right of self-government, on which the constitution itself is founded. It is to uphold the sovereignty of the states, which is the key-stone of the Union. It is to preserve us from the repetition of wrongs which nearly snap the ties of unity and affection that hold the confederacy together—which, as long as they are preserved, are stronger than links of iron. Our object is prospective, and our means preventive. I will not, therefore, revert in detail to all the circumstances connected with the decision of the Supreme Court upon the Occupying Claimant Laws of Kentucky, calculated to affect the rights, the welfare, and the sovereignty of the state. I need not say how that decision wounded her pride, how it threatened her independence, how it disorganized her policy, how it paralyzed her vigor, or how it has distracted her peace. Nor will I bring to view the sufferings of those hardy adventurers who, after purchasing their land warrants, and paying for them to the parent state, Virginia—who, after planting comfort and humanity in the haunts of savages, have since been, or are likely to be, expelled from their peaceful homes, by a process of law more cruel than the Indians themselves. The first emigrants to Kentucky, Mr. Chairman, were the patriots whose energy and whose valor contributed to secure the liberty of America, and who had then to go toward the setting sun in search of a place to rest in. The forests of the west fell before their toil; the foe of the white man retired from their valor, and a state was added, by their enterprise and industry, to our rising republic. These men and their children, whose character can be read in the history of the late war, are, by the practical operation of this decision, now to be despoiled of the chief fruits of their long, their strenuous, and, as they hoped, their successful toils. By the practical operation of this decision, men who adventured to Kentucky when it was a wilderness, who dared the tomahawk and scalping knife; fought the Indians off the soil; cleared farms; built houses, and planted orchards—are to be deprived of them without receiving a cent for the increased value which their labor has given to the soil. This, too, by men who participated in none of their dangers or their sufferings; who came among them armed with a senior patent, or, perhaps, a junior entry made with a little more legal skill and adroitness, and, backed by the decision of the Supreme Court upon our Occupying Claimant Laws. Is it, then, surprising, that, under a decision so destructive of their prosperity, and, as they honestly believe, so manifestly unjust, that the people of Kentucky should resort to the constitutional privilege of remonstrance and complaint?

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*Powers of the Supreme Court.*

[JAN. 26, 1825.]

But this is past, and if it was inflicted without mercy, it has been borne without resentment—the people of Kentucky still look with confidence and devotion to the Union, and recur to the occasion of their own distress only to make it redound to the welfare of the nation. Our object is a national, not a local one; the true policy of the nation, we conceive, is embodied in the resolutions of my colleague—they aim both at preventing the repetition of such decisions of the Supreme Court as we think have inflicted injuries and injustice upon us, if that can be done, and at allaying the excitement they are calculated to produce, in case they ever should be repeated. It is, in a few words, designed to inspire the Court with a little more caution in the adjudication upon cases affecting the validity of state laws, and to clothe its decisions with more weight and authority. Nothing, it appears to me, can be more prudent, more patriotic, more peaceful. Caution and dignity are the handmaids of justice; and the adoption of the resolutions will convey no disrespect to that august and salutary department of the Government. It will not enfeeble or depreciate its decrees, to have it known that they carry almost the unanimous wisdom of the Court along with them.

The nation will be satisfied, and its satisfaction will tend to exalt the character of the Court. Adopt the modification which is proposed, and, if an opinion of the Court should appear hereafter to distort the mild countenance of the constitution with a frown of tyranny, whether it be applied to the rights of Kentucky, Ohio, of Maryland, Pennsylvania, or Virginia, it would be regarded with more surprise, and be treated with more respect than at present. The concord of the states and the harmony of the Union would be complete, and the acts of the judiciary would be acquiesced in; its encroachments would not be complained of, and why should not the Court be thus modified? We shall be told that it will enable a minority of the Court to govern in cases affecting the validity of state laws. As well might it be complained of, that a minority of the Senate govern because the constitution requires the concurrence of two-thirds to ratify a treaty, and that valuable treaties may be defeated by a minority. Again, if you desire to amend your constitution, no matter how obvious the defect, it requires the concurrence of two-thirds of Congress, and three-fourths of the states, yet the Supreme Court are the expounders, and virtually the makers, of our constitution. Thus, the constitution itself seems to sanction the modification proposed. Besides, it should be borne in mind, that the case cannot reach the Supreme Court of the United States, until it has passed the popular branch of the Legislature, the Senate, received the approbation of the Governor, and the sanction of the Supreme Court of the state. Here you throw into the scale of the minority of the Supreme Court, the voice of a whole state, sanctioned by the legislative, executive, and judicial departments of the state government. Which, I ask, should prevail, according to the genius and spirit of our institutions, and what becomes of the argument that a minority may rule? On the other hand, the Supreme Court, consisting of four, certainly not superhuman beings, certainly not lifted above all the frailties incident to humanity, three concurring, vacate a law thus solemnly enacted, however strong the convictions of the judges dissenting, or equivocal the acquiescence of the judges who assent, may be. There, indeed, a minority do govern; three out of seven judges prostrate a whole system of state policy!

I should trespass upon the patience of the committee in attempting to discuss at length the propriety of the decisions in the case of the Dartmouth College, of Olmstead and Peters, of *Pennsylv v. Bank of the United States* against the states of Maryland and Ohio, of *Cohens vs. State of Virginia*, the decision upon the Occupant Laws of Kentucky, which last operates so griev-

ously, in which principles, as novel as they are extraordinary and dangerous, are settled; but it may not be improper to remark, that each of those cases produced excitement and occasioned complaint, and that many of the points on which those turn, were subtle and attenuated; and that, considering the immense consequence and vital interests involved in them, it would have been fortunate, not only for the parties, but for the Union, if the court had been so organized as to induce more hesitation and forbearance, than, under its present constitution, it is capable of observing. As it is constituted at present, as I have before remarked, three out of four produces a decree, however strong the conviction of the judge who dissents, and hesitating concurrence of those who approve it, may be. On occasions so embarrassing, a tribunal so wise, so considerate, and so powerful, would like, I have no doubt, to be endowed with a stronger faculty of forbearance. In the decision of the Supreme Court upon the Occupant Laws of Kentucky, it does appear to me that greater reflection might have changed the decision. I hope I shall not be suspected of presumption when I say, with unaffected humility, that the reasoning of the Court, in bringing the compact between Virginia and Kentucky, within that clause of the constitution which secures the obligation of contracts, does not seem to me to be sound or defensible; nor can I conceive how it was possible for Kentucky to enter into a compact with Virginia, and afterwards be accepted as an equal sovereign member of the Union, by which she divested herself of rights which Virginia and other states have claimed and exercised, and which are essential attributes of state sovereignty; among them the right of legislating over her own soil. Kentucky could not enter into a compact by which she would become a member of the Union, stripped of an essential attribute of sovereignty, the right of legislating over her own soil.

It is not necessary for me to defend the right of Congress to prescribe the mode of decision in the Supreme Court. There is certainly no denial of this authority, either express or implied, in the constitution; that instrument is silent as to the number of judges to be appointed, and yet Congress can fix or enlarge that number; and, considering the creative power delegated to the legislature, in respect to that branch of the Government, there can be no room to doubt on this subject.—The modification now proposed is, moreover, so strikingly analogous to the whole cast of our system, it would seem to be required as much by theoretical reason as practical expediency. In the legislative branch of the Government the people are represented both in their national and federal capacities. The citizens and the sovereignties of the states concur in the composition of the Senate, they also concur in constituting the President. The Judiciary, alone, is exempt from this wise and wholesome combination of influences. The mere preponderance of opinion that is required to test the efficacy of a private bond, or vacate an individual will, destroys the validity of a whole system of state policy, and goes near to dissolve the integrity of the Union. In the decision which originates the Kentucky remonstrance, they overturn a system of laws which has grown up with our state, which are essential to our peace and prosperity, which are founded in justice, and which has not only received the assent of our Legislature, but of our Superior Court, constituted as it was, of three enlightened and able jurists. But, said Mr. M. we wage no war upon the Judiciary—we utter no intemperate philippics, or ill-natured invectives, against that valuable department of the Government—we are the advocates of such a change as we believe to be in harmony with the spirit of our free institutions, as we believe to be imperiously demanded by a regard for their stability, and as we are sure will receive the approbation of the people, and ought to meet that of the judges. We

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have been rendered, by the force of circumstances, the zealous, the honest, if the humble advocates of state rights, unfashionable as they may be, and the firm and unyielding, if feeble, opposers of judicial encroachments upon them. Those doctrines and principles which loosed our tongues and released our persons from the operation of alien and sedition laws, which secured the ascendancy of republican principles, and achieved the political victory of 1800—such principles as we believe must sooner or later prevail, are these we advocate.

In pressing this subject upon the consideration of the House, we are animated both by a firm conviction of the correctness of the principles embraced in the resolutions, and a sense of duty to those whom we represent on this floor. We do not solicit you to remedy a local grievance, but we urge that grievance as *one cogent reason* for the adoption of a national measure, which we are persuaded is sanctioned by the character of our institutions, and called for by a proper regard for their prosperity and perpetuity.

Mr. LETCHER moved to fill the blank in the resolution with the word "five," so as to require the concurrence of five judges to set aside a state law.

Mr. CLAY observed that he had not been aware of the intention of his colleague to call up the resolution at this time. He had, however, no objections to it. He now rose chiefly for the purpose of presenting an inquiry to the chairman of the Committee on the Judiciary. The whole House, as well as that gentleman, were perfectly aware that some alteration was requisite in the Judicial system of the United States, so as to make it comprise all parts of the Union, and to extend it to those six or seven states, which are at present out of the pale of its benefits. He had hoped that the House would have received, before now, a bill for that purpose from the Judiciary Committee—a bill that should either go to alter the whole system, or, if that was not to be done, at least to extend it in its present form to all the states. He should be glad to know whether there was any probability of such report being made. If any new Judges were to be added to the present number of those on the bench of the Supreme Court, it would require the blank to be differently filled. If there was any probability that such a report would soon be presented, he should advise his colleagues to defer the consideration of the present subject until the House should have the bill before it, which the committee might report.

Mr. WEBSTER said, the inquiry of the honorable gentleman was entirely natural; and yet he was afraid that he ought to consider it as proof how little attention his labors had attracted: for he had reported, from the committee to which he belonged, a bill "making further provision for the administration of justice," at the last session, which was now on the Order Book, and he was anxious to seize the earliest moment to call it up. In his opinion, the honorable gentleman had not at all overestimated the necessity for some new provision for the administration of justice. The present system was, in his conviction, essentially inadequate, so far as regarded the Western states, and he thought they had a fair right to complain. He had given this subject a great deal of consideration last session, and had, on no occasion, taken more pains to ascertain the opinions prevailing with different gentlemen, and in different parts of the country. There were three modes of making the requisite provision, which had been suggested. One was, the establishment of circuit courts, and the confining of the duties of the Judges of the Supreme Court exclusively to the bench of that court. A bill to this effect had been reported by the Judiciary Committee, some sessions ago, before he had the honor to belong to it. The President had recommended it, also, at the commencement of the present session. Another plan was, to appoint Circuit Judges, where they were wanted, leaving to the Judges of the Supreme Court still the perform-

ance of such a portion of circuit duties as they might be supposed able to fulfil, without excess of labor, or too much consumption of time. One branch of the Legislature had, some years ago, passed a bill upon this plan. A third mode was merely the extension of the present system, by providing for the appointment of an additional number of judges on the bench of the Supreme Court. In bringing the subject before the House, he should take occasion to state, fully, his own opinions, and hoped to be benefitted by those of others. It was a most important subject, and, as he thought, a most pressing one, and he was prepared to perform his duty in regard to it, whenever the House would take it up.

In regard to the present subject, (Mr. LETCHER's resolutions,) on which the committee had just heard an able speech, he would not presume to dictate to—hardly, perhaps, under the circumstances, ought he to presume to advise—the honorable mover of the resolutions; but he rather wished that the resolutions might not be further discussed, till the general subject of the judiciary should be considered. If the gentleman, however, thought otherwise, and was disposed now to take the sense of the committee, he should feel it his duty to submit a few observations upon the proposition, before the vote was taken.

Mr. CLAY observed, in reply, that he was not unaware that the bill referred to had been reported at the last session, and now lay on the table. But, as he had observed no movement with respect to it, he had begun to fear, that it was intended to suffer it to lie there. He was glad to learn that it was to be called up. There was not a case of more crying injustice to be found in the Union, than that presented by the present organization of the Judiciary system of the United States. Seven, (and indeed he might say nine,) states were cut off from the enjoyment of its benefits. There was, to be sure, one Judge to hold circuits in all these states; but the task was vastly beyond the strength of any individual, and the constitution of the present Judge was suffering under the burden. Two states were occasionally favored by the presence of the Judge; the remaining seven had no aid whatever from the United States' Courts. He was confident, he said, that gentlemen would agree with him in the sentiment, that the principle of representation was not more important in legislation itself, than in the administration of justice. In the present state of things, the Judges of the Supreme Court know as little about the local laws of some of the Western and Southern states, as if they did not belong to the confederacy. Of the great variety of different codes existing in those states, not one was represented on the bench of the Supreme Court, and the people of the West had certainly a right to expect that if Congress did not approve the present system, they would alter it, or if they did approve it, that they would then extend its operations to the Western states. Mr. C. closed with observing, that, important as the bill was, which had this day been ordered to its third reading, the object of which was to punish crimes against the United States, it was not more important nor more necessary, than that which went to secure the administration of justice by the Courts of the United States, throughout nine states of this Union.

Mr. LETCHER expressing an acquiescence in the suggestion that the consideration of this resolution should be deferred,

The Committee rose, and obtained leave to sit again.

Mr. WEBSTER, alluding to the conversation which had passed in the committee, said, that there were two important subjects now under special notice, for the consideration of the House. He meant the appropriation bill, and the measure in charge of the honorable member of South Carolina, for compensating the state of Massachusetts for her militia expenditures during the late war. He could not certainly interfere to prevent the progress of either of those important measures; but he

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Preservation of the Indians.

[JAN. 27, 1825.]

intended, as soon as they should be disposed of, to call up the bill making further provision for the administration of justice by the courts of the United States. He would now give notice for Tuesday, and would call up the bill either on that day, or as soon afterwards as the measures to which he had referred should have been acted on.

#### HOUSE OF REPRESENTATIVES—THURS. JAN. 27.

The following Message was received from the President of the United States; which was read:

*To the House of Representatives of the United States:*

Being deeply impressed with the opinion, that the removal of the Indian tribes from the lands which they now occupy within the limits of the several States and Territories, to the country lying westward and northward thereof, within our acknowledged boundaries, is of very high importance to our Union, and may be accomplished on conditions and in a manner to promote the interest and happiness of those tribes, the attention of the Government has been long drawn, with great solicitude, to the object. For the removal of the tribes within the limits of the state of Georgia, the motive has been peculiarly strong, arising from the compact with that state, whereby the United States are bound to extinguish the Indian title to the lands within it, whenever it may be done peaceably and on reasonable conditions. In the fulfilment of this compact, I have thought that the United States should act with a generous spirit; that they should omit nothing which should comport with a liberal construction of the instrument, and likewise be in accordance with the just rights of those tribes. From the view which I have taken of the subject, I am satisfied that, in the discharge of these important duties, in regard to both the parties alluded to, the United States will have to encounter no conflicting interests with either. On the contrary, that the removal of the tribes from the territory which they now inhabit, to that which was designated in the Message at the commencement of the session, which would accomplish the object for Georgia, under a well digested plan for their government and civilization, which should be agreeable to themselves, would not only shield them from impending ruin, but promote their welfare and happiness. Experience has clearly demonstrated, that, in their present state, it is impossible to incorporate them in such masses, in any form whatever, into our system. It has also demonstrated, with equal certainty, that without a timely anticipation of, and provision against, the dangers to which they are exposed, under causes which it will be difficult if not impossible to control, their degradation and extermination will be inevitable.

The great object to be accomplished is, the removal of those tribes to the territory designated, on conditions which shall be satisfactory to themselves, and honorable to the United States. This can be done only by conveying to each tribe a good title to an adequate portion of land, to which it may consent to remove, and by providing for it there, a system of internal government, which shall protect their property from invasion, and, by the regular progress of improvement and civilization, prevent that degeneracy which has generally marked the transition from the one to the other state.

I transmit, herewith, a report from the Secretary of War, which presents the best estimate which can be formed, from the documents in that Department, of the number of Indians within our States and Territories, and of the amount of lands held by the several tribes within each; of the state of the country lying northward and westward thereof, within our acknowledged boundaries; of the parts to which the Indian title has already been extinguished; and of the conditions on which other parts, in an amount, which may be adequate to the object contemplated, may be obtained. By this report, it appears

that the Indian title has already been extinguished to extensive tracts in that quarter, and that other portions may be acquired, to the extent desired, on very moderate conditions. Satisfied I also am, that the removal proposed is not only practicable, but that the advantages attending it to the Indians may be made so apparent to them, that all the tribes, even those most opposed, may be induced to accede to it at no very distant day.

The digest of such a Government, with the consent of the Indians, which should be endowed with sufficient powers to meet all the objects contemplated; to connect the several tribes together in a bond of amity, and preserve order in each; to prevent intrusions on their property; to teach them, by regular instructions, the arts of civilized life, and make them a civilized people, is an object of very high importance. It is the powerful consideration which we have to offer to these tribes as an inducement to relinquish the lands on which they now reside, and to remove to those which are designated. It is not doubted that this arrangement will present considerations of sufficient force to surmount all their prejudices in favor of the soil of their nativity, however strong they may be. Their elders have sufficient intelligence to discern the certain progress of events in the present train, and sufficient virtue, by yielding to momentary sacrifices, to protect their families and posterity from inevitable destruction. They will also perceive, that they may attain an elevation to which, as communities, they could not otherwise aspire.

To the United States, the proposed arrangement offers many important advantages, in addition to those which have been already enumerated. By the establishment of such a Government over these tribes, with their consent, we become in reality their benefactors. The relation of conflicting interests, which has heretofore existed between them and our frontier settlements, will cease. There will be no more wars between them and the United States. Adopting such a Government, their movement will be in harmony with us, and its good effect be felt throughout the whole extent of our territory, to the Pacific. It may fairly be presumed that, through the agency of such a Government, the condition of all the tribes inhabiting that vast region may be essentially improved; that permanent peace may be preserved with them, and our commerce be much extended.

With a view to this important object, I recommend it to Congress to adopt, by solemn declaration, certain fundamental principles, in accord with those above suggested, as the basis of such arrangements as may be entered into with the several tribes, to the strict observance of which, the faith of the nation shall be pledged. I recommend it also to Congress to provide by law for the appointment of a suitable number of commissioners, who shall, under the directions of the President, be authorized to visit and explain to the several tribes, the objects of the Government, and to make with them, according to their instructions, such arrangements as shall be best calculated to carry those objects into effect.

A negotiation is now depending with the Creek nation, for the cession of lands held by it, within the limits of Georgia, and with a reasonable prospect of success. It is presumed, however, that the result will not be known during the present session of Congress. To give effect to this negotiation, and to the negotiations which it is proposed to hold with all the other tribes within the limits of the several States and Territories, on the principles and for the purposes stated, it is recommended that an adequate appropriation be now made by Congress.

JAMES MONROE.

Washington, 27th January, 1825.



JAN. 28, 1825.] *Regulations of the Post Office.—Road from Detroit to Chicago.*

[H. of R.]

HOUSE OF REPRESENTATIVES—FRIDAY, JAN. 28.  
REGULATIONS OF THE POST OFFICE.

The House took up the unfinished business of yesterday, which was the bill regulating the Post Office Department.

The bill, with the amendments yesterday made in committee of the whole, were read.

Mr. LONG, of N. C. objected to concurring in that amendment of the bill which extends the period during which members of Congress are authorized to frank letters and documents, from thirty to sixty days; and supported the motion by a short speech. The question on concurrence was taken and decided in the affirmative—ayes 85, noes 54. So the amendment extending the privilege to sixty days was retained in the bill.

Another amendment proposed to exempt, from the prohibition of an union of the station of Postmaster and Contractor, all contracts in existence previous to the passage of this act.

Mr. COCKE opposed this amendment, and Mr. J. T. JOHNSON supported it; when the amendment was agreed to.

Among the existing provisions of the bill is one, for limiting the papers to be received in exchange by printers, to the number of fifty.

Mr. SAUNDERS, of N. C. moved to strike out this section, and substitute another, which went in effect to restore the law as it now stands, which allows each printer to exchange one paper with every other printer of a newspaper in the United States, free of postage. Mr. S. supported the amendment by a few observations on the unfavorable effect which such a restriction as was proposed would have upon the editors of papers in the country, who are all in the habit of drawing much of the matter in their papers from the great Atlantic cities, and such other large towns as are the foci of political and other intelligence, and who, from the limited circulation of their papers, cannot afford to pay postage, &c.

Mr. J. T. JOHNSON, (the Chairman of the Post Office Committee,) having intimated that he should not object to the amendment—

The question was taken thereupon, and it was agreed to.

So the limitation was expunged from the bill.

Several attempts were again renewed in the House, which had been rejected in committee, to increase the compensation of several different Postmasters, but without success. The debate on the other details of the bill was conducted by Messrs. J. T. JOHNSON, of Ken. (Chairman of the Committee,) Mr. EDWARDS, of N. C. WRIGHT, LIVERMORE, CULPEPER, COCKE, WOOD, and SAUNDERS.

Mr. SAUNDERS moved to strike out the clause of the bill which provides a compensation of one thousand dollars in addition to the surplus of the fees of office of the Postmaster of this city, and supported the motion by several addresses to the House. It was opposed by the Chairman of the Committee, and on the question being put, the motion to strike out was carried—Ayes 68, Noes 62.

Mr. TAYLOR, of New York, then moved a clause granting to that officer eight hundred dollars in addition to the surplus of the commissions, &c. and made a few remarks in support of the motion, which was carried in the affirmative—Ayes 64, Noes 59.

The bill was then ordered to a third reading.

ROAD FROM DETROIT TO CHICAGO.

The House having resolved itself into a committee of the whole on the bill "to authorize the surveying and opening a Road from Detroit to Chicago, in the State of Illinois"—and Mr. CLAY, (Speaker,) having invited the Delegate from Michigan to present a statement of the facts bearing on the bill—

Mr. RICHARD rose, and went into an exposition of the merits of the bill, of which the following is an abstract:

Every body, said Mr. R. knows that the contemplated road is of the greatest importance, not only to the territory of Michigan, but also to the General Government; and the consequence is, that it ought to be done immediately. This road will connect the east of the Union with the west. The grand Canal of New York will be completed next July. When the said canal is finished, we consider Detroit in contact with New York. Last fall, I was on Lake St. Clair, on board a vessel built during the preceding winter, with a moveable keel, ready and calculated to go down, through Lake Erie and the whole of the Canal, to land at the battery in New York.

In relation to our military operations, the utility of a road across the peninsula of Michigan, from Detroit to Chicago, is obvious. This road will afford a facility to transport munitions of war, provisions, and troops, to Chicago, Green Bay, Prairie du Chien, and St. Peter's River, &c. When our upper lakes are frozen, an easy communication will be constantly kept open, in sleighs, on the snow. Every body knows, that, during the last war, for want of a proper road across the Black Swamp, our Government incurred an expenditure of ten or twelve millions of dollars, which would have been avoided by having a good road, made in due time. Make this road now, when you have the full sovereignty over the Territory of Michigan, before it becomes an independent State, and you may easily anticipate how beneficial this road will be to your finances. There are more than seventeen millions of acres of, generally, good and fertile land, in Michigan proper, (without speaking of the ninety-four millions of acres in the Northwest Territory.)—Without a road to go to those lands, they have no value. We are credibly informed, that, on our inland seas, I mean Lakes Erie, St. Clair, Huron, and Michigan, no less than one hundred and fifty vessels are plying up and down, on board of which whole families do come, sometimes, with their wagons, horses, sheep, and milk-cows; land in Detroit, ready to go in search of good land, to settle on it, and having their money ready to give to the Receiver of the Land Office. No road to go into that immense wilderness! What disappointment! During about twelve months, last elapsed, more than one hundred thousand dollars have been actually paid into the hands of the Receivers of Public Moneys, in the Territory of Michigan, for land purchased. How much more would have been paid, if the proposed road had been made! We can learn from the Commissioner of the General Land Office, that about ten surveyors have been employed in surveying public lands in the interior of Michigan Territory, between Detroit and Chicago, during last winter. These lands will soon be advertised to be sold. If there is no road to come to them, who will purchase them? But let this road be made; let it be determined by this House that it shall be made; then you will have purchasers enough: they will come as a torrent from the Eastern states. It cannot be questioned that the land along the intended road will sell for two or three hundred per cent. more than it would if there were no such road; and so, in nearly the same proportion, the adjacent lands will be increased in price. If you ask me what will this road cost? I beg leave to answer, it will cost nothing to the Government. I might say it will cost less than nothing. The half of the land along the road only, will, after the road is made, or determined to be made, sell for a great deal more than the whole would, without the road. What an immense profit for your Treasury you can derive from the sale of this immense wilderness, which remains entirely unprofitable, if you have no road to come at it! This road is, therefore, to be beneficial to your finances, and your military operations, and to all parts of the Union, as

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well as to Michigan itself; as it will afford all kinds of encouragement to the citizens of the Eastern States, who wish to emigrate to the beautiful and fertile lands of the West.

As to the amendment proposed to the 2d section of the bill, by the gentleman from Tennessee, I have no hesitation to state to the House, that the present Executive of the territory of Michigan, has, during a long residence in the said territory, acquired all requisite information and knowledge of the local circumstances; he has traversed this wilderness, on horseback, from Chicago to Detroit; he knows every foot of it. During his long administration, he has given ample proofs of his abilities; he has discharged the duties of his office so as to give general satisfaction to the people; and his attachment to the interest of the General Government is well known to all the officers of Government, and to the honorable members of this House; he is, therefore, the best qualified person to take the direction of the contemplated road. It would be even desirable that he should have the appointment of the Commissioners, and their assistants. He would find on the very spot, men who have often travelled through the said wilderness, and are acquainted with all the Indian trails which intersect it, and who, for one dollar a day, would do the work better than gentlemen appointed by the President, who might be tempted to spin out the time to increase their pay, at three dollars per day. I trust, therefore, that the honorable gentlemen of this House will pass the bill in its present shape, without any other amendment but the following, that is, to fill the blank in the 3d section with the sum of fifteen hundred dollars.

After a short explanation by Mr. HENRY, of Kentucky, to satisfy the House that a proper attention had been paid to the subject by the Committee on Roads and Canals, before they reported the bill at the last session; Mr. COOK, of Illinois, moved to fill the blank with \$3,000, instead of 1,500, which was agreed to.

On motion of Mr. CAMPBELL, of Ohio, an additional section to the bill was added, viz:

"And be it further enacted, That the Governor for the time being, so soon as the lands shall be surveyed, and the road located, under the direction of this act, shall designate the sections which are hereby appropriated, and report the same to the Secretary of the Treasury."

The committee then rose, reported the bill, together with the amendments, and it was ordered to be engrossed for a third reading.

IN SENATE—MONDAY, JANUARY 31, 1825.

#### SUPPRESSION OF PIRACY.

The Senate proceeded to the consideration of the bill "for the Suppression of Piracy in the West Indies;" the motion to strike out the third section, which authorizes the blockade of the ports of Cuba, (under certain circumstances,) being still pending—

Mr. MILLS rose, and said, that, when this subject was under discussion on a former occasion, I moved for its postponement, not with a view to enter at large into the discussion of the bill, but to obtain some time to examine into the facts recently submitted by the Executive, and to allow other gentlemen a similar opportunity. The state of my health has unfortunately been such as to preclude my going into that examination, with any satisfaction to myself, but, what little I have made, has not, in the least degree, weakened my confidence in the propriety of the measure proposed by the present bill. I shall not attempt to enter fully into the discussion of the merits of all the questions which have been brought into discussion. It would be inexcusable in me thus to tax the patience of the Senate, and the state of my health admonishes me of my inability to accomplish such a task.

This bill has already undergone a full discussion, and the chairman of the committee has acquitted himself so

entirely to my satisfaction, that I do not wish to trench on the ground which he has so ably occupied.

The first question that presents itself is, what is the object of the bill now before us? Sir, it is the suppression of piracy, the foulest crime of which man can be guilty—a crime which shuts him out of the pale of civilized society, renders him the enemy of the whole human race, and amenable to the laws of every civilized country—a crime, of the perpetration of which it may truly be said, that "his hand is against every man, and every man's hand against him." The next inquiry is, is it necessary that any further legislative measures should be resorted to, to effect this object, so desirable in itself? Have we now sufficient provision by law, without legislative aid, for the suppression of this most atrocious offence? Sir, I shall not enter into the horrid detail of the cursed atrocities of these monsters, and of the abominable extent to which they have carried their depredations. The tidings are waited to your ears on every gale. The representation of respectable individuals, the communications from your authorized agent on the island, the united voice of the whole commercial part of the country, the official reports of the Navy Department, and the recommendation of the President, all combine to stimulate you to provide some legislative measure for the suppression of these horrors. I hope, then, you will not turn a deaf ear to these united and repeated applications. It seems the unanimous opinion that some new proposition should be adopted; that the legislature should do something; and the great question is, whether the measures recommended by the committee are suitable and proper for the emergency? To some of these propositions no objection has yet been made, and I trust none will be. And in deciding the question that is submitted to us, we must look to the practical and probable results of it. This appears to me to be the part which wisdom would dictate. We ought not to be deterred by remote and possible inconveniences, embarrassments, and dangers, much less by imaginary difficulties, from prosecuting that course which promises the most beneficial results. It is very easy for ingenuity to start objections to almost any course, and if these objections are listened to on every occasion, no measure of importance would ever be adopted.

The motion now immediately before the Senate is, to strike out the third section of the bill. To decide this question, we must not look at the third section of the bill, alone and insulated, but see how it is connected with the other parts of the bill, and what bearing it has on them. To examine what tendency it has to assist in carrying into effect the previous provisions contained in the bill, more especially is it necessary to compare its provisions with those of the second section.

The twenty-ninth section authorizes the commanders of our armed ships in fresh pursuit, to land on the coasts of this island, to capture and destroy the pirates. Now, sir, the third section is intended to strengthen this power, and ensure its execution in case of the single event of their taking refuge in any of the ports or cities of the island, and there finding protection. On this condition alone, is it that the third section will ever be brought into operation.

It is said that the third section provides for blockade, that blockade is a war measure, and only to be resorted to *flagrante bello* as one of the rights of war. Sir, I agree to this general proposition, and regard a blockade in time of peace as somewhat of an anomaly, but entirely justified by the anomalous situation in which we are placed: for, such is our situation, that none but an anomalous remedy can be efficaciously applied to the evil. It is often necessary to shape our course according to circumstances, and adopt under one set of circumstances, a measure, which, under others, would be improper if not totally unjustifiable.

But, sir, with whom are we at war? Are we at war

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with Spain? No sir. Shall we, when a blockade is instituted under the limitations contained in the third section of the bill, be at war with Spain? No, sir. It is only an additional remedy for the suppression of this enormous evil—the only means of securing the success of the enterprise. With whom, then, are we at war? With none but those with whom all the nations of the earth are at war—with pirates. On what terms is this blockade to be instituted? After they have found shelter and protection in the ports of the island; when the civil power has thrown over them the shield of authority; is this to be submitted to? Can Spain complain with any shadow of justice? If she is unable to check the progress of these bandits, and if she really wishes to discharge the great duty she owes to the whole civilized world, so far from uttering a complaint, she will co-operate with us in any measures we may adopt for its suppression. If the local authorities are conniving at these depredations, and sharing the spoil with these robbers, and they find refuge and protection from them, then nothing can be more clear than that they make themselves *particeps criminis*, accessories after the fact, and are liable to the same punishments as the pirates themselves. In this case you only blockade a port which has been converted into a den of Pirates, and put itself out of the protection of the laws of nations. Spain must place herself in this situation, as companion of the pirates, if she complains, under these circumstances, that you invade her rights of sovereignty by taking them in their fastnesses. But, sir, we do not impute any such designs to Spain; we do not suppose she wishes to encourage these villainies; we impute it alone to her imbecility that they are suffered to exist, and the whole civilized world will justify us in our proceeding.

Suppose, sir, that, whilst we were in fresh pursuit of a piratical vessel, she should come athwart a Spanish armed ship, and that ship should shelter the pirates with her guns. Would it be an attack on the sovereign rights of Spain if you were to reclaim the piratical vessel, and if necessary, to force her from the vessel that was thus protecting her? Could Spain complain of this with any justice? No, sir, she could not. By the act of affording them shelter, in this fresh pursuit, they would make themselves pirates, and subject themselves to the punishment due to pirates. Where then is the difference between protection extended to a piratical ship on the ocean, and protection extended to a piratical crew on land? Let us suppose, sir, that this piratical vessel, instead of seeking protection under the guns of a Spanish ship, runs into the harbor of Havana or Matanzas, and there finds protection from the civil power. In this case, it is my opinion, sir, that a much more rigorous measure than blockade would be perfectly justifiable. I will not say how far the strict laws of nations would justify our proceeding in this case, but I feel no hesitation in saying that they would deserve to have the town bombarded about their ears, instead of feeling the comparatively trifling inconvenience of a blockade. It is impossible that, in a case like this, you can apply the laws of civilized warfare. They are not in any way applicable. Your enemy is entitled to none of their humane provisions; he is not a prisoner of war when taken, but a culprit liable to be tried by the tribunal of any civilized power, and subject to condign punishment. There are no rules of civilized warfare that can be extended to him.

It is to be observed, then, that the object of this provision is not to humble Spain, or to interfere with her rights, or trench on her sovereignty, but to punish the outlaws of every nation. *Parcere subjectis et debellare superbis*, is as often a maxim of justice and policy, as it is of magnanimity; but where and to whom is it applied? To those who acknowledge their error and evince a disposition to atone for it, and not to those who, though weak and imbecile, continue their depravity and heap insult upon injury. However weak such a power may be, it is neither politic nor just always to spare them.

But not only Spain, we are told, will be injured, but other nations may take umbrage at this course—nations who are called neutrals. Sir, I should be glad to know who are neutrals in this warfare? There are none. The whole civilized world are our allies in this conflict, and will cheerfully unite with us in our efforts to subdue their as well as our enemy. Sir, by a fair construction of the provisions of this section, and a prudent exercise of the powers vested in the Executive, I think we shall avoid giving offence to other powers. May we not presume that these powers will be prudently exercised? Are we to withhold all power, from a jealous apprehension that that power will be abused? Can we imagine that the Executive will institute a blockade and rush into difficulties, and precipitate the nation into a war, without cause, without necessity?

Sir, I entertain no such suspicion. A reasonable confidence must be placed in the depositaries of power. I am willing to place that confidence, and will go as far as any man to hold the Executive responsible for the faithful exercise of that power; but I am not willing to weaken and paralyze his efforts by any unreasonable suspicion. The course indicated by the third section of the bill, will unquestionably be faithfully pursued by the Executive; negotiations will be pursued, arrangements made, and an understanding will be effected with other nations, if it should ever be necessary to exercise this power conditionally invested in the President on this occasion. But, sir, why should we be more scrupulous on this subject than other nations? Look at Great Britain—more than once she has landed on the coasts of these Islands, and scoured the country in pursuit of these marauders; and once, at least, if newspaper authority is to be depended on, she has instituted a strict blockade of the inlets and harbors of the whole Isle of Pines, to secure the success of this pursuit. What was the result of this bold measure? An American vessel and cargo were snatched from the grasp of these robbers, and the crew rescued from death—the blood hounds were hunted from their dens and fastnesses—were shot down like wild beasts, or captured and deservedly consigned to the gibbet. What, further, was the result of this measure? Twelve vessels, dismantled and plundered, were found concealed in one of these inlets, and, horrible to relate, not one human being of all their crews left to tell the dismal fate of his comrades; and will you, with such evidence as this before your eyes, with all this horrible detail brought to light, will you speculate and refine with metaphysical subtlety on the rights of sovereignty, and the sanctity of territorial dominion, instead of adopting the only measures that can suppress the evil? Is not this the very case where “right goes hand in hand with necessity and the exigency of the case?” Sir, it seems to me that, if a case can be found where that well known principle of the law of nations is to be applied, this is the very case, and you are right in making use of all the means necessary to accomplish the object—those means are pointed out by the third section of the bill, and are not such as transcend the necessity of the case.

But it is said you may employ municipal regulations, you may interfere with your own citizens, and prohibit the trade with Cuba altogether. But, sir, it is very obvious that this is no remedy for the evil. It is not the trade to Cuba alone that is exposed to these depredations, but the whole of the trade that passes through the Gulf of Mexico, and all the coasting trade, as far as New Orleans is concerned. This will afford no remedy, but will only cut you off from a valuable trade, without any equivalent.

Objections of various kinds have been suggested to this measure, and while in one breath you decide that it is a measure likely to involve us in war and in great difficulties, in the next breath it is laughed at as a measure of extreme imbecility, and altogether inadequate to effect the object proposed. If so, if the powers intended to be given by the third section of the bill are not ad-

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equate, and you desire a more prompt exercise of that authority, the section need not be struck out to accomplish that. Surely there is ingenuity enough in those who make the objections to frame such amendments and modifications as may provide for the more prompt application of those means. Some of the objections to the details are undoubtedly well founded, and especially that vessels innocently in port at the commencement of a blockade, will be shut up during its continuance in this den of pirates. To these most certainly the right of egress should be freely permitted. For myself, however, I could not consent to vest the right of instituting blockade in the discretion of the commanding officer on the station, for I think that we have some evidence that such discretion might not always be prudently exercised. But I sincerely hope, that we shall not strike the section altogether out of the bill, from our inability to amend it so as to accomplish the wished for purpose.

It is further said, sir, that the national character is in danger. Sir, I estimate as highly as any man can do the value of national character; but, sir, how have we acquired that character, and by what means are we to secure it? Is it by a tame submission to injury, insult, and aggression, or is it by a prompt correction of evils, and a vigorous exercise of authority, whenever it becomes necessary to protect our rights? Sir, we have endured until forbearance is no longer a virtue. We have already suffered enough. The property of our citizens to the amount of millions, has been plundered, and hundreds of lives have been sacrificed to these merciless cut-throats. Already have Allen and Cocke, and many other gallant spirits of our navy, fallen victims in this unholy conflict. Already the streets of your cities are filled with lamentation and mourning for the loss of brothers, husbands, and fathers, most cruelly murdered. The blood of the slain calls for vengeance on your power, and the safety of the living demands protection from your justice.

Mr. LLOYD, of Massachusetts, said, that, notwithstanding the very able and elaborate discussion this subject had undergone, situated as he was, he felt it incumbent on him to rise, for the purpose of entering his decided and pointed protest against the motion to strike out the third section of the bill. He did it because he considered that section giving the power of imposing a blockade, as containing the only novel, vital, efficient principle in the bill, and which, if stricken out, with the exception of the first section, to which he would presently refer, and which was a mere reiteration of a measure heretofore discussed and adopted by the Senate, he should consider the bill as entirely worthless, unless hereafter materially amended before it passed.

In expressing his opinion, he must be allowed to take a very brief historical view of the subject. At the commencement of the session, on the opening of Congress, we were informed by the President, in his message, that "the piracies now complained of, are committed by hands of robbers who inhabit the land, and who, by preserving good intelligence with the towns, and seizing favorable opportunities, rush forth, and fall on unprotected merchant vessels, of which they make an easy prey; that the pillage thus obtained, they carry to their lurking places, and dispose of afterwards, at prices tending to seduce the neighboring population. "This combination," the President says, "is understood to be of great extent, and is the more to be deprecated, because the crime of piracy is often attended with the murder of the crews; these robbers knowing, if any survived, their lurking places would be exposed, and they be caught and punished."

The Secretary of the Navy, in his letter to the President, accompanying the message, fully confirms this account; and further states, that there are now few, if any, piratical vessels of a large size in the neighborhood of Cuba, and that none are seen at a distance from the land;

but the pirates conceal themselves, with their boats, in small inlets, and finding vessels becalmed, or in a defenceless situation, assail and destroy them, and when discovered, retreat into the country, where, by the apprehensions they create, and the plunder they have obtained, they remain secure, and mingle, at pleasure, in the business of the towns and the transactions of society, and acquire all the information they want to accomplish their purposes. Against such a system as this, the Secretary observes, no naval force, within the control of the Department, can afford complete security, unless aided by the local authorities; and, unless this co-operation be obtained, additional means should be entrusted to the Government, to be used in such manner as experience may dictate.

On these communications, the subject was referred to the respectable Committee of Foreign Relations, who, in giving a careful attention to it, inquired of the Executive what the additional means, before referred to, as being expedient to be entrusted to the Government, were; and, in reply, were informed by the communication on our tables, that there were three more effectual means for the suppression of a practice so destructive of the lives and property of our citizens, and that these expedients were, one, by the pursuit of the offenders to the settled, as well as unsettled parts of the Spanish Islands, from whence they issue; another, by reprisal on the property of the inhabitants; and a third, by the blockade of the ports of those islands sheltering the pirates.

The committee then report, "that our commerce, for years, has been harassed, and the lives of our citizens destroyed by pirates, issuing from the colonies of Spain in the West Indies, is a fact derived not only from the message of the President, but is of universal notoriety. These outrages (they say) have been so long and so often repeated, and marked with such atrocious circumstances, that a detail would be as impracticable as unnecessary."

The committee then report a bill, authorizing the President, at his discretion, on being informed that any of the pirates have escaped from the pursuit of American vessels, and find refuge and shelter in any of the ports of the Island of Cuba, or other Spanish Island, to order a blockade of such port so sheltering and protecting them.

We have thus obtained, in the most formal and official manner, direct, unequivocal information, of the existence of these atrocities, of the inability of the navy to suppress them, and of the additional means necessary to be entrusted to the Executive, and referred to in the message. These means, as before stated, are, pursuit on shore, reprisal, and partial blockade of the offending ports. The committee recommend the mildest of these alternatives, the blockade, which is, however, denounced by the highly respectable and able gentleman from Virginia, as being an interpolation on the law of nations; as breaking down the moral force of the Republic, and as a just cause of offence, if not of war, to other nations.

Sir, from whom is this advice received? From men ranking among the most distinguished civilians of the age, possessing your entire confidence, who have been drilled in diplomacy by a forty year's experience, who have spent their lives in advocating the rights of neutrals, and grown grey in turning over the works of Grotius, and Vattel, and Puffendorf, and Ward, and Azuni, and a host of other authors, with whom I can boast no acquaintance.

In reference, therefore, to the source from whence the recommendation is derived, as well as to the feeble lights of his own understanding, he denied the soundness of the inferences that had been drawn; and without even making any more recondite research than to an elementary work, a humble one in some respects, he would contend, that the major proposition includes the minor; the whole embraces all its parts; and that, if you have justifiable cause of war against Cuba, or against

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Spain, you have the right to mitigate the evils of war, by the adoption of any milder course you may think proper to pursue.

It is true, if you blockade a single port of the Island of Cuba, Spain may be authorized to declare war, and perhaps be joined by her allies, if she and they choose it; and this would undoubtedly be attended with great injury to us. Peace is the polar star of the interest of our country; but, if it is only to be preserved at the expense of the continued murder of our citizens, and the plunder of our property with impunity, then, for one, he was ready for war; and how much soever of injury it might entail, it would be accompanied with one consolation, derived from the experience of the last war; which was, that, whatever nation chose to go to war with the United States, it would carry them forward in their progress to maturity, *per saltum*, half a century at a jump.

But we are told, other nations will take umbrage at this; that although blockade is a belligerent right, and we impose it, we are still not at war.

What have other nations to do with this question? It belongs exclusively to us and to Spain. When two nations go to war, who constitutes, without their consent, a third party to determine who is right, or who is in the wrong? All other nations have a right to demand, is, that, in the prosecution of the quarrel, the rights of humanity shall not be outraged, and that the usages of war shall be observed as regards them. What have they then a right to require, as it regards a blockade? simply, that you shall not entrap them—that you shall give them due notice, a sufficient warning, and that you shall keep up a close, rigorous, unremitting investment, by a sufficient force; if you do this, you perform all your duties as regards them—all the rest lies between the party blockading and the party blockaded.

But, we are asked, suppose we find these unoffending neutrals in the den of robbers, in the lair of these wild beasts, at the time we invest it, what will you do with them? It is answered, give them the right of egress precisely in the state they were at the time the blockade was imposed; after this, strictly keep them in, and keep them out. This is all they have a right to expect. If they are in bad company, they must feel the effect of it.

Is a formal parchment declaration of war at all times necessary or usual among nations? If it is, what was the state of our quasi war with France, in 1798? Where was the proclamation of France, when she blockaded Cadiz, and kept out, not only merchant vessels, but our messenger of peace, in a national vessel? Where was the proclamation, when the British pounced upon the Spanish frigates and captured them, with their treasure, during the late wars between France and England?—Where the proclamation, when she sent her fleet up the Cattegat, blockaded and bombarded Copenhagen, and destroyed the Danish fleet? These cases are adduced as showing that, between third parties, a declaration of war, if you choose it, is not considered indispensable, as to usage, not as approving them.

Have you abundant cause of war against the inhabitants of Cuba? Look at the accounts of your official agent; you find from them, that these murderers and robbers are well known, are connected with the inhabitants, and suffered, if not protected, by the local authorities; and even the Governor General, whose good dispositions are so much spoken of, tells you frankly, when applied to for the aid of government, that, so deeply implicated are all the inhabitants of Regla, where a quantity of plunder was known to be secreted, that he dare not make the investigation—it might create a rebellion.

Sir, with something more than delicacy, with an approach to fastidiousness, we have kept out of sight the enormities we are suffering; it must be useful, however, to have an occasional and sparing reference to them. He should cite briefly only three instances: The first was that of the *Alert*, commanded by a very respectable citi-

zen of Portsmouth, in New Hampshire—Captain Blunt. This vessel, bound from New Orleans, was becalmed off the Moro Castle; a boat approached, when the first wretch that crossed the gun-wale, ran the captain through the body, who was afterwards cut to pieces, and the only vestige that remained of him in the morning was his slippers, overflowing with blood; the crew were abused, and the cook, asleep in the steerage, was lacerated in the most cruel and wanton manner, and his mangled corpse thrown to the hogs, who were seen the next day fattening on his entrails.

The next case is that of the *Laura Ann*, already before the Senate; this was a vessel belonging to New York, boarded by pirates, at a short distance from Matanzas, when bound to the Havana, who, after beating and inhumanly hanging the captain, butchered the crew; but probably discovering, from a critical comparison of the shipping paper, with the number of the dead and dying on the deck, that there was one still wanting, they descended into the hold, exclaiming, in their barbarous language *uno mus*—one rat left; pricked, with their knives and swords, to find out the deficient sailor, and, lest he should not have escaped torture by drowning, on not finding him, set fire to the vessel, in order that, if on board, he might be consumed with it; on the flames reaching him, he crawled on deck, and finding the pirates were off, dropped over board, and happily reached the shore.

The last case he should cite, was one that has not before been distinctly presented to the Senate; it is of recent date, and was now on his table in manuscript, duly sworn to. It furnishes some new facts, and gives an exposition of the neutral rights of the innocent, unoffending inhabitants of Cuba.

It is the case of the brig *Henry*, of Hartford, captured on the 24th of September last, off the Bay of Honda, when bound with a load of sixty-eight mules, from St. Jago, in Mexico, to Charleston, in South Carolina: the vessel, as soon as captured, was run into a small creek, alongside ten other hulks of vessels, having the appearance of being recently burned, and which must have been navigated by 130 or 150 men, not one of whom was visible, but the crew of the *Henry* was significantly given to understand, that their fate, as soon as the mules were landed, was to be a similar one, and that dead men told no tales. The *Henry* was then dismasted, to prevent her being seen, her equipment and stores taken out, put on board a Spanish drogher, belonging to Havana, and preparations made for landing the mules: the captain having been twice hung up by the neck to the yard arm, until he was senseless, and became subsequently deranged, the arm of the mate broken by the stroke of a cutlass, and the crew outraged and abused. Happily, however, before the mules could be landed, the vessel was discovered by the boats of the English sloop of war *Icarus*, who humanely came to their assistance; and on their approach, the pirates quitted their prey, and abandoned it. Not so easily, however, did the neutral inhabitants of Cuba quit their hold; after a time they came off—pleaded their neutral rights—claimed the mules as their property—they had bought them of the pirates—they had paid a valuable consideration—they had an equitable interest in them, and demanded their delivery!! The British commander indignantly took the best possible course he could have adopted, with a single exception; he instantly ordered all the mules to be shot upon the deck; the exception referred to, is, that he should have shot, in preference, those who demanded them. Mr. L. stated, he would not pursue this disgusting detail, but would leave it, after observing, that if, for a length of time, we permitted atrocities of this kind to continue and go unpunished, the multitudinous waves of the ocean would not speedily efface the crimson it would attach to our escutcheon.

He had said, that, with the exception of the third sec-



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tion, now proposed to be stricken out, and the first, which contained no new principle, he considered the bill as of little value.

The first section provided for the increase of the Navy, by the addition of ten sloops of war; this he warmly approved; it would be useful in the suppression of piratical depredation, but it grew not out of that consideration alone; the subject was fully considered and discussed, and approved the past winter; it was advocated as needful in any event, for the completion of our naval peace establishment, as necessary for the security of our interests, and the protection of our rights on the coast of Africa, in the Mediterranean, and in the Pacific, as well as in the Gulf of Mexico—as a measure of economy; for five sloops of war could be built for the same cost as one 74; and as a needful school for our young officers to qualify them for higher and important commands. This was the origin of the measure of an increase of ten sloops of war; which he hoped would be adopted.

The other principles of the bill, independent of the blockade, were, the authority to pursue on shore, to arm the merchant vessels at their own expense, to require bonds that an ill use should not be made of the armament, to distribute prize money, subject, however, to the paramount private agreement of the parties, and to grant pensions from the proceeds of their own captures, and from no other source, to the heirs of those who are killed, and to the survivors who were wounded; all which, he contended, were of scarcely any importance. The right of pursuit had been given two years ago, by Mr. Secretary Thompson, to Commodore Porter. The arming of merchant vessels was now unrestricted; the merchants did it on their own responsibility, without bond, and this provision was an incumbrance rather than an accommodation to them. The distribution of prize money, they could regulate as well by private agreements, without the law, as with it; and this they could also do with regard to pensions, of which it was difficult to speak seriously. These pensions were to be derived, from what? From captures made of Pirate's row boats, which could not be found ten miles from the shores, and which it would cost ten times as much to bring to the United States as they would be worth when they got there; and this is the only source from which the pensions are to arise, for the act provides that it is to be from this source, and from no other; merchant vessels could not make other captures; ships of war might get salvage occasionally—their business was to cruise along the coast, the object of the merchant ship was to get in to port as soon as possible. He would not pursue the subject, but again repeat, that, if the third section were stricken out, except for the provision with regard to sloops of war, he was wholly regardless of the fate of the bill.

Mr. VAN BUREN said that the subject under consideration was justly considered by the gentlemen who had spoken before him, as one of the utmost importance, requiring the prompt, zealous, and efficient attention of the government. It was one in which a great portion of his immediate constituents, from their situation and pursuits, had a deep interest, and thinking so, partook largely of the general solicitude which was every where felt in relation to the proceedings of Congress in the matter. That circumstance must be his apology for prolonging a discussion which had been conducted with so much ability. At the commencement of the session, this subject was referred to the Committee on Foreign Relations; they had given to it their early and zealous attention, and the bill on the table was the result of their deliberations. Although he might not be able to approve all its provisions, he was led, by inclination as well as duty, to give them a liberal and candid examination—to aid in their improvement, if that should be in his power, and support such as he could, con-

sistent with obligations of an equally imperative character.

Although the immediate question before the Senate was to strike out the third section, authorizing, in certain cases, a blockade of the ports of the Spanish Islands in the West Indies, the discussion had embraced the whole subject. He thought this course justifiable, and would himself follow the example which had been set. As early as the year 1822, piracies in the Gulf of Mexico and West India seas, had arrived at so great a height, and assumed a character so alarming, as to call for the most rigorous exertion of the Government for their suppression. The call was not made in vain. In December, 1822, a law was passed, "authorizing an additional naval force for the suppression of piracy," making an ample appropriation for the object, and placing the means provided at the disposal of the Executive. Those means had been put in prompt and effectual requisition, under his direction. In February, 1823, a squadron, consisting of seventeen vessels, of different sizes, besides barges, was prepared for sea, and despatched upon the service authorized by the act, under the command of the most gallant and meritorious officer of the navy, Captain David Porter. The success which crowned the exertions of Capt. Porter, and the gallant men under his command, was fresh in the recollection of all. Although driven from the station by pestilence, in the latter part of the season, such had been the destruction, and such the impression made on the pirates, that Captain Porter, in his letter to the Secretary of the Navy, of Nov. 19, 1823, declared "that he had no knowledge of the existence of any piratical establishment, vessel, or boat, or a pirate afloat in the West Indies and Gulf of Mexico. That they had all been burnt, taken, destroyed, and driven to the shore, where the latter had, in most cases, been speedily captured by the local military." And the Secretary of the Navy, in his report to the President, of the 1st of December, 1823, which accompanied his message to Congress, stated that "piracy, as a system, had been suppressed in the neighborhood of the Island of Cuba, and now required only to be watched by a proper force, to be prevented from afflicting commerce any further in that quarter." Such were the results produced by the exertions made for the suppression of piracy in 1823. Let us now, (said Mr. V. B.) direct our attention, for a few moments, to those of the past year. The Secretary of the Navy, in his communication of the 12th of January last, informs us, that all the vessels, making the squadron of 1823, (except four small schooners two of which had been lost, and two abandoned, as unfit for service,) "had been uniformly employed in the object, so far as their size, and the necessity of occasional returns into port for stores and repairs, would permit; that the effect produced had fallen far short of that of the preceding season, was most apparent. From the month of July down to the last accounts, the horrid practice had been gradually extending and assuming new features of atrocity, until it had arrived at a height not only ruinous to our commerce in those seas, but, in an unprecedented degree, destructive of the lives of our citizens, and distressing to the cause of humanity."

To what cause, he asked, are we to attribute this unfortunate and distressing disparity in the results of the service of the two successive seasons? He put the question, not with a view to implicate any one, but to be informed, by those more capable, and who had better means of information: To the end that, if in the power of Congress, the appropriate remedy might be applied. He knew too well, and prized too highly, the gallantry, fortitude, and perseverance, of our naval officers and seamen, to believe, for a moment, that they could be deficient in any thing which duty required at their hands; and he did not feel himself at liberty, from all the information before us, to say that there had been dishonor or misconduct upon the part of those to whose control the

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force employed was entrusted. In the communications made to the Department of State by the commercial agents at the Havana, (Mr. Randall and Mr. Mountain,) and laid before the Senate, in pursuance of their call, the explanation is attempted to be given. In their several letters, from July to late in November, they complain of the withdrawal of the squadron from that station. They put this matter strongly before the Government—they say, “that since the spring, the vessels have been distressed on various services remote from the Island; that they have merely made it a touching point, in transitu, without remaining long enough to make any permanent impression on the system.” They do not question, but, on the contrary, highly applaud the zeal, enterprise, and courage, of our officers and seamen actually engaged in pursuit of the pirates, but attribute the consequence to the diversion of the force to other and incompatible objects; of which, the chief one, they say, is the employment of the vessels, destined for the suppression of piracy, to the transportation of specie from ports in the Gulf of Mexico to the United States. They are very explicit on this subject, and as he (Mr. VAN BUREN,) had already observed, expressed themselves very strongly. On the other hand, Commodore Porter repelled the complaints which had been made to the Government by merchants and others, with great force, attributing the revival of piracy to causes other than those spoken of by Randall and Mountain. It was not, Mr. VAN BUREN said, for the Senate to decide whether there was blame any where, or if there was, where it lay. The act of 1822 did not (as its title would seem to indicate,) confine the appropriation exclusively to the suppression of piracy, but provides “for affording effectual protection to the citizens and commerce of the United States, in the Gulf of Mexico and the seas and territories adjacent.” Under it, Commodore Porter had been charged by the Navy Department, in his first instructions, in addition to the suppression of piracy, not only to extend his attention to the suppression of the slave trade, to the system of privateering on our commerce, carried on from Porto Rico and Porto Cavello, but also to the protection of the convoy of specie from Vera Cruz and the Mexican coast generally to the United States. There was, Mr. V. B. said, no complaint from the Department, that any greater attention had been paid to the latter branch of duty than was warranted by its instructions.

But he thought there was reason to apprehend, that the main object, the suppression of piracy, had been seriously affected by the multiplication and variety, and supposed incompatibility of the duties he had spoken of. He advanced this suggestion, however, with diffidence. His inexperience in these matters might lead him into error—but if there was ground for the apprehension he entertained, he respectfully submitted whether measures ought not now to be taken to prevent a recurrence of the evil. Mr. VAN BUREN said, he would not detain the Senate longer on that branch of the subject, but proceed to the consideration of the different sections of the bill. [He then adverted to the provisions of the bill authorizing the building of ten sloops of war, the privileges given and rights secured to merchant vessels who should arm for their own defence, and the authority to place on the pension list those seamen in the merchant service who should be wounded by the pirates, and the widows or children of the slain, explaining the grounds on which they rested, and his ideas of their propriety.] These, said Mr. V. B. are all the provisions recommended by the committee looking to attacks upon the pirates on the ocean. They are appropriate, and, as far as such measures can go, will doubtless be found sufficient. But it is supposed that, in consequence of the changed condition of things on the Island of Cuba, other measures, and of a different character, are called for.

In 1823, Commodore Porter ultimately received effi-

cient aid from the local authorities of the Island. It is now said, that that aid has been withheld during the last season, and that, instead thereof, there has been criminal confederacy with the pirates on the part of the great body of the inhabitants of the Island, and a participation in their plunder—that, with the exception of the Captain General, and some of the higher officers, there has not only been a total remissness on the part of the local authorities in the use of means for the detection and destruction of the pirates; but that they have received countenance and protection from most of the officers of the Government. It is on the assumption of those positions, that the committee have recommended measures which are intended to bear upon the inhabitants themselves. That these measures, or others of the same tendency, may change the existing relations between Spain and our Government, is understood; and the consequent propriety of looking well to the facts on which they are predicated, has been duly appreciated. The Executive has been called upon for information. He has furnished it. Of the credibility of the sources from which it is derived, we cannot judge; but we are to presume it good—the ability of its author is apparent. The statements made by Mr. Randall, and by Mr. Mountain, are full of, to us, the most distressing, and to the people and local government of Cuba, discreditable and even criminal facts. We are told, that there is not the least doubt, that many of the inhabitants are concerned in the equipment of the vessels employed by the pirates; and in the participation of their plunder—that the moment a prize to the pirates arrives on the coast, persons from the interior throng to the spot to share in or purchase the plunder; that the property soon finds its way into the cities, and tempts the cupidity of all by the advantage of the treasure; that large quantities of the plunder have been known to be introduced into Matanzas, and publicly sold, at prices which alone betray the nature of the property; that retailers of goods are seen travelling to the coast with pack horses, for the known purposes of purchasing from the pirates; that this was carried to so great an extent, that a respectable Englishman, who owned a ferry near the city, informed Mr. Randall that the returns from his ferry gave certain indication when prizes were on the coast, from the number of persons who resort from Matanzas to their rendezvous; that persons, known to be pirates, walk the streets of that city unmolested, wearing upon their persons goods known to have been obtained by violence. One case which is mentioned by Mr. Randall, will serve to illustrate, in the most striking manner, the extent of this evil. A large sum of money in doubloons, which had been plundered from a Boston vessel, had been traced to the village of Regla. The Captain General was informed of the fact, and his aid asked for its recovery. Having caused inquiry to be made, he sent for the claimant, and informed him that he feared all Regla would be implicated in the robbery, and that, in the then disturbed and critical condition of the island, he dared not push the investigation further. And, to give countenance to the practices enumerated, we are told that men of responsibility on the island, openly justify the conduct of the pirates, making it a political question, and urging the commission of what they call similar practices of the Americans, in capturing Spanish property, under the South American flag. To redress those atrocious disorders, frequent and unavailing applications have been made to the local government. Circumstantial and well authenticated accounts of them have been repeatedly laid before the Government of Spain by our Minister at that Court, and the attention of the Spanish Government to the subject, solicited with much eloquence and great force. The appeal thereto has been made in vain; on the contrary, all the indications we can derive from the documents, of the disposition of the Spanish marine, are of a character, evincing an indisposition to aid in the

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destruction of the pirates. A Spanish brig of war boarded a piratical vessel in the neighborhood of Cuba, received presents from, and exchanged civilities with her, and suffered her to pass, on being informed by the pirate that he cruized only against the enemies of Spain. In another case, a Spanish vessel of war was laying in Matanzas when the American brig *Industry*, from Baltimore, was attacked by pirates in the harbor without interference on the part of the Spaniard, although the attack was well known at Matanzas at the time of it.

It is from these and other facts, established by the documents on our tables, said Mr. V. B. that the committee have drawn the strong inference of a participation in the guilt of the pirates on the part of the inhabitants of Cuba—remissness, if not encouragement, on the part of the local government, and a total disregard of our complaint on the part of Spain. In his judgment, the committee were well warranted in the opinion they had formed and expressed. The case was one which he thought called for the exercise of the best means at the disposal of the Government. That the extermination of those atrocious robbers was due to the character of the country, to the cause of humanity, and to the rights and injuries of our oppressed citizens, was a sentiment in which all concurred. We have, said he, the physical power to effect it—we have the moral power—that is, the right to do it, and the duty of its accomplishment rests upon us. If they differed, it could only be as to the means to be employed, and the manner of their application. On that subject, he would submit his ideas with freedom, but with diffidence, and with an entire willingness to yield to the views of those who were better able to judge. The Executive, in his message, had suggested three expedients, in addition to the other and undisputed provisions of the bill, viz. "the pursuit of the offenders to the settled as well as unsettled part of the island, reprisals on the property of the inhabitants," and a blockade of the island from which the pirates issued." The committee had adopted the first and last only.

Mr. V. B. said he complained of the provisions of the bill professing to give the right of pursuit, because it fell short of what it ought to be, and he was constrained, by obligations of the most imperative character, to oppose that which authorizes a blockade of the Spanish ports, as wholly unwarrantable. He would state the grounds on which his objection rested. The section confines the right to land and capture the pirates, to cases of *fresh pursuit*. That right existed to the full extent, by the law of nations, to which it was professed to be given by the bill, except, perhaps, the alternative of bringing the pirates to this country for trial, if they were captured in the inhabited parts of the Spanish territory. That such, too, was the opinion of our Government, would be seen on a reference to the instructions given to Captain Porter by the former Secretary of the Navy.

But a slight consideration of the subject was necessary to show that that opinion was well founded. Although pirates are not regarded as enemies in the sense in which we speak of the public wars of belligerents and neutrals, still, the inferences which have been drawn by the former Secretary, by analogy to the rights of a belligerent to follow his enemy in certain cases, into a neutral port or country, are founded in reason and good sense. That a belligerent has a right so to follow his enemy, is certain, but in what case can he (without fault on the part of the neutral) alone exercise this right—it is in case of eager pursuit, on account of some conflict or violence which has preceded and which is followed up, whilst the matter is warm. Otherwise, he has no right to seek his enemy in the port or country of his friend. So too, in regard to pirates, if a vessel is attacked by them, and in its defence, or if, knowing them to be such, and in a lawful attempt to arrest them, they fly any where, by land or water, you have a right to pursue

them. If that pursuit was continued into the Thames, to the city of London, even to Westminster Hall itself, the act of the pursuer would not give just cause of complaint to the Government whose territory was so invaded. The motive and the object were laudable, and no offence or injury being intended, none would be considered as done. The truth and justice of this position, he said, might be illustrated by familiar allusion to the personal rights of individuals, and he made them.—There is, therefore, no doubt, said Mr. V. B. that, if our vessels come in contact with the pirates at sea, and they fly, the right of pursuit to the land, settled or unsettled, attaches, and the bill upon the table gave no more. It was most evident that, unless Spain could be induced to interfere, or the mischief in some other form repressed, a further authority to our forces would become indispensable—the authority to land on the island in search of pirates, to exercise municipal authority there, to wrest the sword of justice from the hands of those who were unable or unwilling to wield it for the ends of justice. He would give the right to the President, to authorize the exercise of such powers, under the circumstances he would thereafter state.

Mr. VAN BUREN said, that the views he had thus far taken of the subject, brought him to the consideration of the immediate question before the Senate, the motion made by the gentleman from Virginia to strike out the third section, which authorizes the blockade of the Spanish ports upon the establishment of certain facts. Mr. V. B. said he fully concurred with the honorable gentleman who had made the motion, in considering the measure the section contemplated as utterly unwarrantable by the law of nations, and (if that view of it could be entertained) wholly inexpedient. Mr. V. B. said that the two gentlemen of the committee who had preceded him, and the gentleman from Massachusetts, who had last addressed the chair, (Mr. Loom,) had attempted to support the measure on various, but, in Mr. VAN BUREN'S opinion, untenable grounds. The gentleman last up had endeavored to do it in part on the score of the authority derived from the recommendation of the Executive, inferring from thence the opinion of his cabinet, composed, as it undoubtedly was, of men of learning and talents, in favor of the fitness of authorizing of blockades under the circumstances contemplated by the bill. The first we hear of the measure is from our agent at Havana; the next in the report of the Secretary of the Navy, accompanying the President's message at the commencement of the session, as explained by the Secretary in his letter to the chairman of our Naval Committee; and, lastly, in the suggestion of the President in his late message to the Senate.

Mr. VAN BUREN said that he had reason to doubt the correctness of the inference of the honorable gentleman; that he had accidentally been possessed of the knowledge, that at least one of the persons alluded to, and him whom the honorable gentleman possibly referred to as the one who had spent a great portion of his life in the study of Grotius, Puffendorff, and Vattel, and other writers on national law, was not of the opinion supposed. But, waiving further remark on that head, what, said Mr. V. B. is the right of blockade? It is, said he, one of the highest acts of sovereignty which the law of nations allows to a belligerent, and, however well established the right is, its exercise is universally conceded to be most harsh and oppressive in its operation upon the rights of third parties of any that is contained in the code. By it a belligerent extends the hardships and sacrifices of war, from the parties concerned to their neutral friends, by interrupting their accustomed and otherwise lawful commerce. He does this when and where, on the coast of his enemy, he pleases, and to any extent his passions or supposed interests dictate, and his means can accomplish; all others must submit to it under heavy and well defined penalties.

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It is a right of war, and it is in time of war only that it is, or ever was allowed by the laws of nations. No instance in which it was otherwise exercised, or the right to exercise it claimed, is to be found in the books. This is conceded. The recent blockade of Cadiz by the French, stands upon war ground. That matter has been demonstrated by the gentleman from Virginia, in the lucid argument he submitted the other day. War existed between France, as the ally of Spain, and that portion of Spain embraced by the blockade. If it did not, the blockade was a violation of the law of nations. Mr. V. B. said, he was, moreover, indisposed, in any view of the subject, to refer to acts committed in a war waged for the destruction of the liberties of one nation for evidence of the rights of others. Are we, (inquired Mr. VAN BUREN,) at war with Spain? Certainly not. Is it the design of the committee that the passage of the bill and the exercise of this power, under it, is to put us in that condition? The gentlemen say no. What then, he asked, are we about to do? To exercise, in a state of peace, a measure which is only allowable in a state of war. When it was admitted, said Mr. V. B. that the section contemplated a measure not authorized by the law of nations, he hoped that, in this country at least, no further argument could be necessary to dissuade from its adoption. Such, however, appeared not to be the case. We are told that the Governments whose trade will be affected by this blockade, will not complain, because it is necessary and proper to secure the suppression of piracy, and because the interests of all nations are, thereby, promoted.

But why is it that we consider proceedings against the inhabitants of Cuba proper? It is on the ground of their participation in the guilt of the pirates. Of that we judge from information, which we have; but which they may not have. We judge of it under the influence of feelings excited by accumulated injuries; they are not entirely so situated—what is satisfactory to us, may not be so to them, and unless it be so, we have no reason to count on their acquiescence. If we had, still we would not stand justified in the eyes of the world, to attempt so flagrant an interpolation in the national code. If they do not acquiesce, then comes the question so emphatically asked by his honorable friend from Virginia, (Mr. TAZEWELL,) how will you enforce your blockade? For violations or attempted violations of a lawful blockade, the law of nations authorizes the blockading power to capture and confiscate the property of the neutral. This is on the principle that by the act the neutral takes part with the enemy in furnishing him with the means either of subsistence, escape, or information, and the measure of punishment for such interference, is what he had stated. Questions of prize, or no prize, are to be decided by the law of nations, subject to treaties. By that law it is conceded that condemnation for a violation of such a blockade as this, would not be allowed. The right is not given by the act. Why not? Because there is no authority or precedent for it. Are not gentlemen, he asked, aware, that, by thus abandoning the means of enforcing a blockade, they admit, substantially, the illegality of the measure? But we are told, said Mr. VAN B. by the honorable chairman, that he contemplates a resort to force, and to force only, to perform the blockade. What will be the inevitable consequence? A French or English vessel, or the vessel of any other nation trading with Cuba, approaches a port you have blockaded—she is warned off—denying your authority, as she well may, she keeps on. You fire into her, slay her crew, and sink their vessels, and *war exists between you and the nation to which she belongs*. You thus put it in the power, said Mr. VAN B. nay, you make in the duty of your officers on that station to involve you in embarrassments and war almost without limit.

Modifications of the measure have been spoken of to-day, so as to confine it to Spanish commerce. You cannot

do it without involving yourselves in the assertion of another equally untenable right, the right of search, in time of peace, of vessels carrying on a lawful trade. In any point of view, therefore, the measure is ill advised, and should no longer be persisted in. It is to be regretted that it has obtained so far—it may hereafter be brought in judgment against us. We have interests as well as character involved in the question. In the wars which have heretofore ravaged Europe, we have occupied a neutral station,—our situation, the tendency of our Government, and the temper of our people, will, it is to be hoped, continue us in the course we have hitherto so wisely and so happily pursued. The interests of the neutral, therefore, seem emphatically our interests, and we should be careful how we tamper with them. We know well that this right of blockade is cherished and valued by our great maritime rival, as the firmest charter of her naval pre-eminence—a right which she has always manifested a wish to enlarge, and which we, in conjunction with other nations interested in the freedom of the seas, have struggled to confine to its ancient limits. Mr. VAN B. had said that we had character involved in this question; what we had said and done on this subject was before the world—our light had not been hid. We had, he said, principle to maintain, which it had been our pride to support, and which we should be ashamed to abandon. Allusion had been made, and properly made, by the gentleman from Virginia, (Mr. T.) to the collision which had existed in the question of blockade between England and this country at an early period; and he might, with equal propriety, have referred to others of a later date. We should be cautious how we exposed our conduct on occasions that are open to suspicion. Much of our greatness, and no small share of our strength, as had justly been observed, rested on our fidelity to principle and continued reverence and support of the great doctrines of public law in our intercourse with the world. Mr. VAN BUREN said he would further illustrate his idea upon this subject by a reference to a point of controversy between us and Spain, connected with the very subject under consideration. With no other force than a single frigate, a brig and a schooner, employed in transporting supplies from Curacao to Porto Cabello, she had presumed to declare a blockade of more than twelve hundred miles of coast of the Republic of Colombia and the Government of Mexico, adding to the declaration the idle pretence that she had a right to interdict trade with those places, because the same had heretofore been forbidden by the Spanish colonial laws. On the strength of these principles, so entirely inadmissible, she had issued commissions at Porto Cabello and Porto Rico, to privateers, who had committed extensive depredations on our own commerce. We have inveighed loudly and justly against Spain for this outrage. We have said that the only difference between those privateers and the bucaniers of Cuba was, that the former acted under a commission to which the latter made no pretence. On what ground have we done so? It has been, because the idea of now enforcing the colonial law of Spain was ridiculous, and that by the law of nations their blockade could only be legal as far as their actual force will make it effectual. Will the Honorable Chairman inform me with what force we can complain of Spain on this inroad of the law of nations, if we appropriate this solemn right of war to mere municipal purposes, with full knowledge that the pretence of a right so to use it, is not to be found in that law; and that, in attempting it, we attempt a flagrant interpolation upon its principles? But he had done with this branch of the subject, and would conclude it by conjuring gentlemen to be cautious how they made innovations in the public law, and admonishing them that other nations might hereafter improve upon our decision in a form which might be the occasion of our lasting regret. Mr. VAN B. said

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that he would now state, in a few words, what the provisions were which he would substitute, for those of the bill; they were:

1st. Power to the President to authorize our forces to land on the Island of Cuba, in quest of the pirates, and there exercise all the power necessary to their suppression, of which he had already spoken.

2d. Power to the President, on being satisfied of the facts stated in the section; or some other of a similar character, to authorize reprisals upon the commerce and property of the inhabitants of the Island, or by way of contribution on the places, participating in the piratical acts upon our commerce, or both, or in such other form as those more acquainted with the matter should prescribe. He would give this power to the President now, because Congress must adjourn in a few days, not to meet again in nine months, and because, during that period, the exercise of such a power might become indispensable, and he would leave that question to the discretion of the Executive, by whom, he had no doubt, it would be wisely and safely exercised.

In that exercise, he had no doubt every thing belonging to the subject would be regarded, and in connexion with that part of the subject, he would take the liberty of suggesting what, in his humble opinion, might be done with profit and propriety, by the Executive, previous to the exercise of the strong power with which Congress would clothe him. There was, said Mr. VAN BUREN, not only something in the nature of the crime we seek to suppress, but in the place where our power is to be exercised, which not only authorize us to ask, but may perhaps be deemed sufficient to require that we should ask the co-operation of some, at least, of the other powers of Europe. From the present condition of Spain, depressed as she has been by her foreign and domestic wars, and pressed almost to the earth by her late inglorious conflict with her own subjects, the question of her ability to maintain her power in the Island of Cuba had for some years been entertained. It was now, he said, well known, that that circumstance, added to the extreme importance of the Island to several of the powers of Europe, and particularly to this country, had given rise to much jealousy among those nations in regard to it. Rumors of cessions, and apprehension of cessions, had been frequently heard and entertained. Such was the jealousy of the inhabitants themselves upon the subject, that when Captain Porter last arrived, orders were understood to have been given, refusing the admission of his squadron into their ports, avowing, as the reason, their apprehension that his object was conquest. That was, however, explained by the present Captain General, who knew, and was capable of appreciating our motives.

Is there not reason to apprehend that, if, without consultation with England and France, the measures necessary to the entire extinction of this abhorred race, (on the assumption that Spain will do nothing,) may excite jealousies on the part of the Government to which he had alluded, that may lead to unpleasant embarrassments; and is there not, on the contrary, every reason to hope that on application made to them, they would cordially concur in uniting their exertions with our own, in a cause in which their interests and ours are identified? In conjunction with them, the Spanish Government might be addressed in a manner which could not fail of its effect. She might be told that she owed it to the world to suppress this odious practice; that her delinquency was palpable—that, if she desired its suppression, and had not the means to effect it, she ought to say so, and to consent to the occupation of such parts of her Islands as were necessary to that end. If she still refused, the necessary means might be used by the powers of which he had spoken, and a final end would be put to piracy. We have, said Mr. V. B., a right to count on their zealous and ready co-operation.

But, if, contrary to all expectations, they should refuse, then the Executive could exercise the additional powers with which you invest him. To make these explanations, some longer time might be required than to obtain the evidence necessary to authorize this blockade—but there would be time enough.

In the mean time, our forces in those seas would not be idle—they would act with all the means and authority they had in 1823—and if, after taking such steps, the Executive should authorize measures, which it is conceded might, and probably would, lead to a war with Spain—the nation would support, and all the world approve our course.

Mr. BARBOUR next took the floor. In rising again, said he, the Senate will do justice to my sincerity when I declare, that it is under a deep sense of duty. Standing, as I do, in relation to the Committee of Foreign Relations, whose humble organ I am, when its measures are severely animadverted on, and as I think, from their being misunderstood, I am compelled to speak. From the commencement of my honorable friend from New York, when he arrayed all the enormities of which we complain, and in glowing colors—when he proved that the whole Island of Cuba was affected with this dreadful crime, justifying the atrocities, and participating in the plunder, when we had solicited, and in vain, the interposition of the mother country to stay the hand of her people from robbery and murder—when it was admitted that our measures, as at present employed, were insufficient, I had hoped to have had the aid of his confessedly great powers in support of our measures, what was my surprise and mortification to learn, that he was opposed to the whole, or, at least, to whatever is efficient in our bill. It is easy to make exceptions—to find fault. If our plan is not fit, what is his? With that we have not been favored. I beg his pardon: he proposes negotiation with Spain, France, and England, to permit us to take possession of some part of Cuba, and exercise municipal jurisdiction. Indeed! Pray when does he expect that Spain will give permission to a foreign power over her transatlantic possessions? Upon what subject can you excite her indignation more than this; relative to which she has always evinced the most morbid sensibility; and I demand to know whether we are to fold our hands together, and suffer our people to be plundered, and tortured to death, till Spain shall concede this privilege? How long will you wait on Spain, how long submit to these injuries, before you interpose? So far back as '22 we were called upon to protect our citizens from the horrors of piracy. In '25 we are advised to suspend our proceedings till we negotiate with Spain. With Spain! How often has she been called on? how often warned, if she did not interpose, we should be compelled to resort to our own resources? No—little has been received from Spain which has promised even an interference, and yet we are to wait negotiation. In the mean time, your people are given up to plunder and to death.

This will not do. If you like not our plan, give us one less exceptionable, but adequate to the crisis. Exclude us not with promises—let us have the authentic act—let us see some protection afforded our suffering people—save your flag from violation—let it not be, as it now is, an inducement to outrage, rather than a shield of protection. But it is objected that the second section of the bill gives no new power; that the power there granted already exists. Be it so, it does no harm. It confirms an existing right. Yet the authorities of Cuba deny this right. Your President, by asking it, among the means proposed for remedying the evil, must doubt its existence. Then give it. If we have it already, it barely is confirmatory; if we have it without law, this will confer it. Sir, I was struck upon this point with the facility with which gentlemen propose projects, which, according to my reading, are equally without



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the pale of the laws of nations; nay, more so than our plan. They applaud their own, and condemn ours. My colleague proposes a war of extermination on the Island—the gentleman of New York, thinks this short of the occasion. He insists on taking possession, and exercising municipal jurisdiction. What proportion does the blockade bear to these measures? The breeze to a desolating whirlwind! Theirs embrace alike (if there be any such) the innocent and the guilty. The bill proposes an exclusive application of the force to the guilty. Decide between them. The difficulty in this discussion results from a confounding of the laws of warfare between civilized powers, and an effort against pirates. Between the former, the principles of international law are applicable—but in reference to the latter, they are without the law. Fastidiously to require the application of the principles of law to a set of brigands, who trample under feet all law, is a perversion. What is the case actually before us? A distant colony, under a nominal allegiance, but refusing obedience except when in coincidence with their feelings, to any measure directed by the mother country, has become a den of pirates. Exempting the mother country from their guilt, from her inability, (the foundation of this measure,) our measures are directed against the Islands, as the abode of piratical hordes. The measure of blockade is indispensable to their extermination; but, say gentlemen, declare war before you blockade—against whom? Spain? Why we have acquitted her of participation. To declare war against her would be unjust. Declare war against Cuba? Who ever heard of a war against pirates? You declare war against Algiers, because, however imperfect the Government, you admit the existence of a Government, by treating with her. Indeed, a declaration of war presupposes the existence of a Government capable of the relations of peace, otherwise, the war is interminable. But, with pirates, war, in its technical form, cannot exist. You may hang them, but to declare war, or to treat with pirates, would be a degradation. This measure, therefore, released entirely from the principles of international law, is a mere instrument for the extirpation of pirates. But neutrals are to be affected. War—war, and all the dire chimeras are to ensue. Where are the neutrals? Neutrals in regard to pirates! There can be none. They are enemies of human kind, and all mankind are against them. It is matter of profound regret, to hear gentlemen of great capacity, and full of horror as they themselves state, against these pests, and which I do not deny, conjuring up difficulties which are the creatures of their own imagination, and yet suffer them to weigh against the cries and lamentations of the widows and orphans of the murdered. The difficulty of a prize question weighs down the loss of millions, and the murder of hundreds of our people. Sir, it is impossible that any civilized power can make cause of war, the occlusion of the den of murderers, for the purpose of their apprehension; but if, against all human calculation, it should be so, for one I am prepared to encounter it. Tell me not of possible collisions with other powers, without adequate cause. But show me the way by which to protect our citizens from plunder and from death. The latter I will travel, reckless of the consequences. Justice, necessity, are on our side; results may be committed to Heaven; but our character is implicated—the labor of fifty years are to be lost in an instant. The temple of glory, constructed by years of prudence and propriety, and whose dome is so lofty as to be seen in the most distant land, is to be undermined by this measure, and to tumble into ruins! This is, indeed, a grave view of this subject. But how is all this to be produced by an attempt to put down piracy by the only measure which can effect it? Sir, I will not make professions as to my zeal for the prosperity and glory of my country. No, sir; severe as the test is, and imperfect as I am, I am willing to abide the ordeal

of the rule; by the fruit ye shall judge the tree. If the character of the nation is at all concerned in what we shall not do, rather than in what we shall—if a band of ruffians is permitted, in sight of our shores, to practise these abominations with impunity—if the lamentations of the surviving relatives of the dead, and the well grounded apprehensions of the living—if the urgent remonstrances of our suffering fellow-citizens—if a violated flag, which awakens, or should awaken, the pride of every man calling himself American—if all this cannot arouse us, then, indeed, our character must sustain an injury; the vindication of violated rights against unprincipled ruffians, never can. History informs us that a British sailor, in the very waters now the theatre of these outrages, had been mutilated only, by the Spaniard. In his examination before the House of Commons, when asked what were his feelings in the hour of his peril, he replied, that he committed his soul to God, and his wrongs to the vengeance of his country. War was echoed through the Hall. But here, where hundreds have been consigned to an untimely grave, with every species of contumely, and every species of torture, we are deterred from the necessary measure of defence, from the difficulty of a prize case. The living and the dead invoke our aid. We cannot reanimate the dead, but we can avenge their wrongs; and we can save the living by timely interposition. Give the power to your Executive; if negotiation is indispensable to redress, it will be a stimulus to his exertions—if it be not necessary, it will become a dormant power, and without avail. If it be necessary, it will be quickened into active and beneficial operation.

But, if you withhold, and occurrences should demonstrate its utility, where, during the recess, is the power to give it? Grant it, it may be beneficial and can do no mischief; withhold it, it may cost us millions of property and the lives of hundreds of our fellow-citizens. Sir, withhold the necessary means, and what will be the effect? Think ye these brigands do not watch the course of our measures? Let them be told that, after years of suffering and of patience, instead of smiting, as with the besom of desolation, these scourges of our race, our Senate gravely propose to open negotiations with Spain in search of redress—and what is the inevitable result? Your conduct is equal to a proclamation to the refuse of all the world to embark in a scene of plunder, whose reward is tedious negotiation instead of the halter. The evil, you know, has risen to an alarming height already. Your policy of delay, and forbearance, and negotiation, is destined to swell the dreadful tide—vires acquirit eundo—of which thousands of our people will be the victim. Then, with unavailing regret, we may look back on the idle fears whose consequences shall have been so fatal. Make, however, your own election, as I have made mine. As it is my duty, so shall I endeavor to acquiesce cheerfully in your decision.

On motion of Mr. HAYNE,  
The Senate then adjourned.

#### HOUSE OF REPRESENTATIVES—SAME DAY.

On motion of Mr. FORSYTH, of Geo., it was  
*Resolved*, That the Committee on Indian Affairs be instructed to inquire into the expediency of making an appropriation for the extinguishment of the Indian title to land lying in the state of Georgia, by purchases from those Creek and Cherokee Indians who reside within the limits of the said state.

Mr. FORSYTH said, that the Message of the President on the civilization of Indians, communicated to the House last week, suggested the propriety of making an appropriation to comply with the obligations of a treaty which it was expected would be formed with the Creek Indians for a cession of land in Georgia. The

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Secretary of the War Department stated, in his report to the President, that the Creek Indians in Georgia were desirous to make a cession, if the consent of the whole nation could be obtained. Mr. F. said his information on this subject differed from that of the Secretary. The Creek Indians in Georgia were willing to make a cession without the consent of the rest of the nation. The Executive doubted the propriety of making such a contract, because those willing to treat were only a part of the tribe. It was with a view to obtain the expression of the opinion of Congress on this point that he had offered this resolution.

By referring to the statute book, it would be found that two treaties, in 1816, had been made with portions of Indian tribes. The treaty of Fort Jackson was in fact made with a part of the Creek nation. A large portion of the nation were neither present, or represented, but were in fact at war with us when the treaty was made.

During the last session of Congress, a treaty was ratified by the Senate with the Florida Indians: it contains an additional article, made with six chiefs only. Mr. F. did not doubt that the President might have given, or might give, the power to Commissioners to treat with a portion of a nation. That all doubt might be removed, he proposed a reference to the Committee on Indian Affairs, and could not but hope, as there was now a mean by which the extinguishment of the Indian title to land in Georgia could be obtained peaceably, and upon reasonable terms, that Congress would adopt it without hesitation. He proposed to procure, from the War Department, by a resolution which he should presently offer, the documents necessary to enable the committee to act on the subject.

Mr. FORSYTH then offered the following, which lies one day:

*Resolved*, That the Secretary of the Department of War be, and he is hereby, directed to lay before the House a copy of the report of the Commissioners appointed by the President to treat with the Creek Indians for the extinguishment of their claim to land lying in the state of Georgia, of the journals kept by the said Commissioners, and the correspondence respecting the causes that have prevented them from effecting the object of their appointment; also, a copy of all the letters written to the Creek Indian Agent on that subject, from the Department of War.

[This resolution was adopted on the day following.]

IN SENATE—TUESDAY, FEBRUARY 1, 1825.

#### SUPPRESSION OF PIRACY.

The Senate again proceeded to the consideration of the bill for the suppression of piracy in the West Indies; the motion to strike out the third section, (which authorizes a blockade of the ports of Cuba, under certain circumstances,) being still pending.

Mr. HAYNE, of South Carolina, rose, and said, that, as he could not entirely concur in the views which had been taken of this subject by either of the gentlemen who had spoken, he would ask the indulgence of the Senate in stating the principles on which he was disposed to act in the suppression of piracy. When this question of blockade was first suggested, Mr. H. confessed that it had excited scruples in his mind, in respect to the principles which it seemed to involve, and these scruples had certainly not been diminished by the learned and ingenious arguments of the gentleman from Virginia, (Mr. TAZEWELL.) He was constrained to confess, that the magic wand of that gentleman's eloquence, by which he gave, at pleasure, any form or hue to the subjects which he touched, had exerted its influence on his mind and his feelings. A more deliberate examination of the subject, however, had dispelled the charm, and convinced him that the proposed measure, involved no sacrifice of principle, and

though, without certain modifications, (which Mr. H. said he would take the liberty of suggesting,) he could not bring his mind to vote for the clause, yet he should be influenced in his vote by considerations entirely different from those which had been urged. He had no scruples whatever on the subject of a blockade of the ports of Cuba, when the case should occur which should, in his opinion, make that measure indispensably necessary for the suppression of piracy. He would endeavor, as briefly as he could, to put the question on what appeared to him to be the true ground; the ground on which we may not only safely act now, but on which we might proceed in all our future measures on this subject. The question is one of such vast importance, involving, to so large an extent, the property and lives of our fellow citizens, and touching so closely the honor of the country, that it could not command too much of the time and attention of the Senate, or receive too thorough an investigation. He should, after the example of the gentleman who had preceded him, consider the whole bill as open for discussion, and should therefore present his views of the several measures it proposes, and endeavor to show their relative importance in the accomplishment of the great object which we all have in view—the suppression of the atrocious crime of piracy. Mr. H. said he would begin with the question of blockade. The honorable gentleman from Virginia, (Mr. TAZEWELL,) who had moved to strike out that feature in the bill, had told us emphatically that it was a *measure of war*; while his colleague, the Chairman of the Committee of Foreign Relations, (Mr. BARBOUR,) insists that it is a *measure of peace*—peaceful in its character, as well as in its objects. The character of the measure seems to be the only point in issue, between the friends and opponents of the bill. But, sir, said Mr. H. I will submit that this is not the true question; the merits of the particular proposition cannot depend on the name by which it may be called. If the blockade of the ports of the Island of Cuba be the only means of affording to the commerce of the United States that protection which it has a right to receive at your hands; if the monstrous and desolating crime of piracy cannot otherwise be effectually suppressed; then the measure becomes just and necessary, and must be resorted to whether it be a measure of peace or of war. The gentleman from Virginia seems to take it for granted that, when he proves that a blockade is a belligerent measure, he has proved enough, and that it follows, as a matter of course, that it is inexpedient and unjust; nay, that it will even impair the moral character of the Government and the people of the United States.

I am disposed, said Mr. H. freely to admit that, according to my view of the subject, a blockade is an act of war. But I feel myself, at the same time, compelled to dissent from the proposition, laid down with so much emphasis by the gentleman from Virginia, that "a blockade acts not upon the guilty—but only on the innocent." If such was the fact, the right of blockade would never have been conceded to belligerents, nor would the high authorities to which the gentleman had appealed, the learned writers on the law of nations, (whom Mr. H. admitted to be worthy of the encomiums that had been bestowed upon them,) have given their sanction to a practice which did not act upon "the guilty belligerents," but only on "unoffending neutrals." It may be true, that a state of war acts efficaciously on your own citizens, by prohibiting all intercourse with the enemy, under the penalties of treason, and that a blockade of the ports of that enemy would add no higher sanction to the prohibition. But how is it with the power whose ports are blockaded? She carries on trade with all the rest of the world. The laws of war do not prohibit her intercourse with neutrals, except in articles contraband of war. But the moment you blockade her ports, you cut off the whole of her trade. Neutrals, it is true, must

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also be affected; but the effect upon them is altogether incidental, and consequential, and it is suffered only because the belligerent cannot otherwise destroy the trade of his enemy. Look at the practical operation of the blockade proposed by this bill? Is it true that it would have no effect upon Cuba, "the guilty party," but only (in the language of the gentleman from Virginia,) "on the innocent and unoffending neutrals?" It is true that a blockade would, of necessity, cut off some of our trade with Cuba, as well as that of France, England, Russia, Holland, and the other nations of the earth. But, at the same time, you would deprive Cuba of her trade with all the world, and would therefore affect her to at least ten times the amount that you would affect any other power. The object of the blockade, then, is directly to affect Cuba, and it is no objection to the proposition (provided the measure be in itself just and necessary,) that it must also operate against neutrals.

Taking blockade, then, to be *an act of war*, what is the true question which we are called upon to decide? It is, whether such a measure is called for by the circumstances of our present situation. But here it is objected that, if this blockade be an act of war, it must be preceded by a formal declaration of war against Spain, and be followed by general hostilities. But this does not appear to my mind, said Mr. H. to be absolutely necessary. And here I will suggest a distinction between an act of war, and general hostilities. No one can doubt that, to march an army into an adjoining territory, to attack and capture a town, is an act of war. During the siege or investment you would claim and lawfully exercise all the rights of war, and yet such a capture might, under certain circumstances, be lawfully made, without a declaration of war. Suppose an armed force to issue from adjacent territory, from Canada, for instance, and to devastate our frontier and kill our people, taking refuge in a town or fortress on the other side of the line, and that the British Government, (as Spain has done on the present occasion,) refused to interfere—can any one doubt that we would cross over and capture the place? Now this would be an act of war, and yet it need not be accompanied by a declaration of war against Great Britain—nor would it necessarily be followed by a general war.

Every resort to force by a power that has authority to make war, is an act of war. Nay, the definition of war, by the writers on the laws of nations, is "the prosecution of a nation's right by force,"—by force, either partial or general; by force adequate to the object, and applied how, and when, and where, the circumstances of the particular case may require. When you make war, you may carry it on either by general or by partial operations; and the latter are always to be preferred where they can accomplish the object. All measures of forcible reprisals, all levies of contributions, are acts of force—indeed of war, or they must constitute acts of plunder; and yet they are seldom accompanied by a formal declaration of war.

Suppose, said Mr. H. on the occasion of the attack on the Chesapeake, (one of the deepest wounds the honor of this country had ever received,) the gallant officer to whose command was confided the disgraced ship—the ever to be lamented—the incomparable DECATUR, had been ordered, he would not say by the President, but by the sovereign authority of this nation, to wipe off the foul stain by bringing into our ports a British frigate, and he had happily executed those orders, would not that have been a war measure? and yet, who would have contended that we had become pirates, and had put ourselves out of the social relations of nations, by making a capture without a declaration of war?

With respect to declarations of war, Mr. H. said, he would consider it unfortunate for the cause of humanity, if the law of nations required that they should, in all cases, precede acts of hostility. The history of the last

half century would show numerous instances of the redress of national wrongs by reprisals, and the partial exertion of force, without general hostilities. Our French war, as it is called, was an example of this. The practice of nations also, for the same period, would show, that declarations of war were not considered as indispensable. Look at the practice of England in these respects. In 1748, she captured the *L'Alcide*, and the *Lys*, without any declaration of war. In 1664, she captured a Dutch fleet in the same way, and subsequently, off Cape May, took four Spanish frigates, under similar circumstances. But, said Mr. H. I will not fatigue the Senate by multiplying instances. Every nation of Europe had, in a majority of cases, made war without a declaration. Indeed, it was more usual to resort to manifestoes after a war, than declarations beforehand; to resort to particular acts of war, than to general hostilities. The writers on the law of nations had, indeed, laid down the rule that a declaration ought to be first made; nay, that time and due notice should be given to the enemy. But these rules were seldom observed. Even Bynkershoek, one of the soundest writers on the laws of nations, had allowed, "that, after satisfaction had been demanded and refused, a declaration of war was not required by the law of nature or of nations."

I will only further notice, said Mr. H. the attack by Great Britain, upon Copenhagen. Great Britain did not declare war against Denmark, but she sent a powerful fleet, which blockaded the harbor of Copenhagen, besieged the town, *interrupted the access of neutrals*, and finally captured the Danish fleet. Here was an act of war—here was force, siege, and capture, which did not even lead, in its consequences, to a general war. I know, said Mr. H. that this act on the part of the British Government, has been universally reprobated. But the odium which rests on the transaction has arisen from the belief that the British Government took advantage of the weakness of Denmark to spoil her of her fleet. If the grounds taken by the British Government, however, were founded in truth, will it be said that they would not justify an act of war? They alleged that Denmark had made terms with the enemy; that her fleet was destined for Bonaparte; and that a public declaration of war would only have hastened an event already determined on. Suppose these facts to be known to the British Government, and she would have been justified in seizing the Danish fleet.

But, said Mr. H. if this blockade be a war measure, and a declaration be necessary, he would submit to the gentleman whether the act of Congress which enjoins it, may not be considered as a declaration, sufficient to satisfy the most fastidious advocates of form. The gentleman from New York, (Mr. VAN BUREN,) had yielded the whole question when he stated that he was willing, *without war*, to invade, and occupy a portion of the island of Cuba. He protests against a blockade of the Havana, because, should we attack a neutral vessel, forcing the blockade, "war would, thereby, exist between you and the nation to which she belongs;" but he would capture, and hold the Havana, without war. What then is to become of neutral trade to that port? Surely, if you have a right to besiege, and capture, you have a right to blockade. The greater power must include the less. Nor would such a blockade, as is here proposed, have any affinity to the *paper blockades*, of which we have so often complained. The proposal is for an *actual investment*, and such an investment Mr. H. would consider as attended by all the incidents of blockade. Mr. H. was much mistaken if Sir William Scott had not frequently held, that an actual investment, a blockade, *de facto*, was all that neutral nations had a right to look to; and, if he was not very much mistaken, that great judge had, in one case, the blockade of Monte Video, by Sir Home Popham, in 1807, refused to hear evidence of the illegality of the blockade, it being admitted that the

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place was actually invested by the public ships of Great Britain.

I consider, this blockade, then, said Mr. H. as a measure of force: as putting us into a belligerent attitude, in relation to Spain, and as giving us belligerent rights, as far as we may think proper to exercise them. And now, sir, I will go a step farther, and contend that we have just cause of war against Spain; and, though this may be a war measure, yet there is nothing to restrain us from taking it but our own interests or convenience.—The facts, as disclosed by the documents on our table, are, that the Island of Cuba is occupied by pirates; that, from their secure asylums on shore, they issue forth, and attack the defenceless merchantman, murdering the crew, and converting the property to their own use; that these depredations are committed by men known to the Spanish authorities in Cuba, and suffered with impunity to live in their cities, and openly to sell their plunder. I will advert, for a moment, said Mr. HAYNE, to a few facts, to show the extent of this practice and the protection afforded to the pirates by the officers of Spain. The documents on our table show, that, from July to October, a period of less than four months, there were no less than *twenty-three* vessels captured, and plundered by the pirates—manned, by not less, certainly, than *two hundred seamen*, of whom scarcely one escaped to tell the tale. When the gallant Captain Graham, of the British sloop of war *Icarus*, rescued from the hands of the pirates, the *Henry*, of Hartford, he found twelve merchant vessels in their possession, the crews of which were no where to be found. When the pirates were asked what had become of them, we are told that “they shrugged up their shoulders, and were silent.” These merchant vessels, says Captain Graham must have been navigated by at least one hundred and twenty men—and it is obvious *they had all been murdered*. Mr. HAYNE would not attempt to describe the horrors which must have attended the scenes transacted by those fell murderers on the bloody decks of our defenceless merchant vessels. Among the garments, pierced through with holes and stained with blood, were some which had belonged to innocent and defenceless females. Language was inadequate to depict the condition of those who were exposed to the mercy of these fiends in human shape, whose usual practice it was, first to torture, and then to slay their victims, in the solitude of night, when there was no ear to hear their cries, no heart to pity, and no arm to save them. “It is painful, (says Mr. Randall,) to “reflect on the numbers who may have fallen victims “to the same fate, but whose tragical stories are buried “in the ocean with their mangled bodies.” Now, sir, said Mr. HAYNE, it is proved that not only the inhabitants of Cuba, but the authorities wink at these acts—nay, they share the plunder, and the Captain General himself, when a case was brought before him of plundered property deposited in Regla, inquired just so far as to ascertain the truth of the charge, and then declared “that, as he feared all Regla would be found to be implicated in the robbery, in the present disturbed and critical condition of the Island, he dared not push the investigation further,” or, in more plain terms, “I will not, because I dare not, grant you redress.”

But it may be said, that the Captain General of Cuba is not the Sovereign of Spain, and that our redress is to be sought for from the King. Well, sir, we have appealed unto Cæsar. We have represented these matters to him in language as strong as is at all consistent with the rules of diplomacy, and a becoming self respect. We have made these representations over and over again, and to this very hour he has never even condescended to give us an answer of any sort. By referring to the correspondence of Mr. Nelson, our Minister to Spain, it will appear that, on the 10th of January, of the last year, he made a strong and formal remonstrance to the Spanish Government on this subject, setting forth,

in detail, the depredations committed on our commerce by pirates, who found refuge in Cuba, and other Spanish Islands in the West Indies, detailing the nature of their proceedings, and the protection afforded to them by the subjects and officers of Spain. No notice was taken of this remonstrance. It was renewed on the 23d of January, and on the 3d of February, but the Spanish Government remained as cold and silent as the grave. On the 7th of September, Mr. Nelson, for the last time, brought the subject to the view of the Spanish Government. Language is incapable of making a stronger appeal. He states our grievances; tells the King “that the patience of the American Government had been tried to the fullest extent of sufferance, and that the time is at hand when we must resort to measures of a more efficient character.” This representation has also been treated with the most sovereign contempt. By this conduct, the King of Spain has refused us redress; he has adopted the acts of his officers, and made himself responsible for the injuries of which we complain. The Romans, from whom we have borrowed so many of our principles, civil and political, had a custom, on this subject, worthy of much commendation. By their *Fecial law*, the *Pater Patratus*, or Chief of the Heralds, was sent to demand satisfaction for injuries, and if, in *thirty-three days* no answer was returned, the Gods were called to be witnesses of the wrong, and war was forthwith declared.

Now, I do contend, that the conduct I have detailed gives us justifiable cause of war. But we are gravely told, that all this arises from the weakness of Spain, and that this cannot furnish just cause of war. What! shall the subjects of Spain be suffered to depredate on our property, and murder our people, and shall we be told that we must submit to this because Spain is weak? Sir, Spain either can prevent these outrages, and wants the inclination to do so, or she is unable to prevent them. In either case, our right to protect ourselves is complete.

But, said Mr. H. though I contend that there is just cause of war against Spain—war, in any shape, which may suit our convenience to wage; yet, I admit that there is still another weighty consideration, viz: Is it indispensably necessary?

A nation which has just cause of war, is not bound to go to war. That is always a question of prudence for the nation itself. Now, sir, though I am convinced of the right of this Government to go to war, I am of opinion that the object which we have in view, to wit the suppression of piracy, may be attained at less expense; and, therefore, that it is our duty to ourselves to postpone a measure which should never be resorted to, but under the last necessity. A blockade of Cuba must destroy, not only our own trade with that island, but it must destroy the trade of all neutral nations, and these would be evils of great magnitude. Should the honor of our country, and the protection of the property and lives of our fellow citizens require this sacrifice, why, then, sir, let it be made. God forbid that we should consent to weigh profit against honor, or that the glory of our flag, or the lives of our citizens, should be thrown into the same scale with pounds, shillings, and pence. But this trade is too important to be lightly jeopardized. It appears, from documents submitted to this House at the last session, that the amount of our annual import from Cuba is near *eight millions* of dollars: that our exports amount to near six millions: making, together, a trade of *thirteen millions* of dollars, employing upwards of one hundred and seventeen thousand tons of American shipping, and between four and five thousand seamen.

This trade, too, consists in the exchange of articles which we can best spare, chiefly our *bread stuff* and *lumber*, for those which are most essential to the comfort of our people. The interruption of it would be most severely felt by the poor, who would be deprived of the little luxuries which spread cheerfulness around their

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fire-sides. The trade of Great Britain and France, of Holland, Sweden, and Russia, with these islands, is equally important, and entitled to great consideration. Now, said Mr. HAYNE, my opinion is, that piracy may be suppressed without resorting to a blockade, so injurious in its consequences to the commerce of the world. I agree that *piracy must be suppressed*. I acknowledge that the conduct of Spain gives her no claim for forbearance on our part. I have no scruple to a war measure, and of calling it so in plain terms, if it be necessary. But I do not believe that necessity now exists, and at all events, I am disposed to make a fair experiment on the subject. I am, said Mr. H. a lover of peace. I believe it to be the interest of the United States to remain at peace with all the world. A few years will pay all our debts, and double our resources and our strength. I would therefore avoid war, on our own account, as long as it can possibly be avoided with honor.

Now, I think it can be proved, from known facts, as well as the documents before us, that piracy in the West Indies can be suppressed by the vigorous, energetic, and unceasing efforts of a competent naval force, having authority to land and to pursue the pirates into the settled as well as the unsettled parts of the country. It will be recollected, said Mr. H. that, at the last session of Congress, the report of Com. Porter was submitted to us, in which he stated, in substance, that piracy had been suppressed—"their boats burned and destroyed, and the pirates killed or driven ashore."

The Secretary of the Navy was so fully convinced that piracy was suppressed, that he stated it was only necessary in future "to watch them." The facts supported this opinion: piracy was suppressed, though the pirates had not been rooted out. This state of things continued up to the beginning of last summer, when it appears, from the documents before us, that Commodore Porter, being fully convinced that piracy was suppressed, returned home, and the fleet was detached on various duties, leaving a few small schooners, which could not remain long at sea, to watch the shores of Cuba. I beg, sir, that I may not be misunderstood; I do not mean to cast any censure on any officer of the Government, much less to pluck a single leaf from the wreath which encircles the brow of the gallant Porter. Sir, the country owes him a debt of gratitude for the addition he has made to our naval wealth, which I shall never forget. But I am constrained to state my conviction, that an erroneous opinion of the complete suppression of piracy; an opinion not confined to Commodore Porter, but pervading all classes of the community, by occasioning the diversion of the force, led to "the revival" of the practice. When the United States' schooner Jackall arrived in Norfolk, early in the summer, she reported, that "for three months no act of piracy had been heard of;" and so confident were our officers that we should hear no more of piracy, that when Lieut. Skinner's account reached the United States, an article was published in a paper in this city, in the nature of censure on that officer, for creating a false alarm; stating "that there was not the least doubt that the accounts of piracies were exaggerated." It has been shown, sir, that all the cases disclosed in the reports of Messrs. Randall and Mountain, took place after the withdrawal of the force from Cuba. In Mr. Randall's letter of the 1st July, he tells us "that there were pirates lying off Matanzas, but there was no vessel of war of the United States there."

On the 5th July, he writes, "that the absence of our cruizers had emboldened these men to renew their piracies." On the 14th July he writes, "that the Grampus had arrived off the Havana, on the 7th, from the coast of Mexico, bound to New York." On the 12th the John Adams arrived, to sail this day, (14th,) or to-morrow, from the Bay of Mexico, bound to Philadelphia. In short, Mr. President, these occasional stoppages, in the course of other voyages, "like angel visits, short, and

far between," afforded the only protection which our commerce received, if we are to rely on the documents on our table. The pirates, said Mr. Randall, boasted "that they had nothing to fear." I beg leave, said Mr. H. to read one or two passages from the letters of Mr. Randall and Mr. Mountain, which seems to set this matter in a very strong light.

Mr. Randall, in his letter of the 6th of Sept. says—

"It is also, in my opinion, necessary, that the force employed should be always present, with an undivided view and attention to this business. Their occasional absence on other duties, materially impairs their efficacy. Their operations against the pirates should be consecutive and unremitting. It has been found that occasional visits to suspected places, by different vessels, and at long intervals, produce no serious impression on the pirates.

"I cannot but lament, however, the causes, (sufficient, no doubt,) which have induced the withdrawing of so large a portion of the force. Recent events here have proved, that, if this was induced by the supposition that piracy was effectually put down, or that the force left was adequate to restrain it, the opinion was erroneous, and its consequences deplorable."

And again, in his letter of the 31st October, Mr. Randall says,

"It is here a matter of common observation and complaint, that the anti-piratical squadron has effected nothing against the pirates, commensurate with its numbers and force, during the last six months. This has not been owing to the want of zeal, of enterprise, or courage, on the part of our officers and seamen actually engaged in this pursuit, but to their diversion to other objects, incompatible with the efficient performance of this highly important service. Since the spring, the vessels have been dispersed on various services remote from this island, which they have merely made a touching point "in transitu," without remaining long enough to make any permanent impression on the system. For a considerable time, the most exposed part of this coast, at the most dangerous season, was not visited by a single vessel of war, and, for a still longer time, by none but the smallest and most inefficient.

"The temporary cessation of piracies some time before, caused by the presence of a large force on the coast, seems to have induced a delusive and fatal opinion that the evil was extinguished, and to have led to the diversion of too large a portion of the force, to objects of infinitely less pecuniary, and of scarcely any national importance."

Mr. Mountain, the American consul, holds the same language: "It is too true, says he, that our commerce has not been protected on this side of Cuba, since early last spring. Our men of war have occasionally been here, and off here, on their way to and from the ports of Mexico," &c. Now, sir, said Mr. H. is it not fair to conclude that, if piracy ceased to exist while the force was kept constantly on the coast, and if it broke out as soon as their presence was withdrawn, that an investment of the island of Cuba by a still larger force, kept constantly employed in that service, with a vessel anchored in the harbor of Havana, and another at Matanzas, will suppress the practice entirely? The sloops of war will be much more efficient than the worthless schooners now employed on that service, not only on account of being able to remain longer at sea, but because they can carry a number of barges, for service near the shore. I et, then, said Mr. H. the experiment be fairly tried, and if it fail, it will be time enough to blockade or seize the city of Havana.

The right to follow the pirates on shore, Mr. H. also considered as a material means for the accomplishment of the object. He could not concur with the gentleman from New York, (Mr. VAN BUREN,) that we had a right to pursue and take a felon, even in the Halls of Westminster. Where a Government exists, you must apply to the Magistrate, and nations were not in the habit of



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surrendering even a criminal—they were proud of being considered as a sanctuary, from which even a criminal could not be torn. Nor had the Secretary of the Navy given the power to the extent proposed by this bill. He had restricted the right of fresh pursuit to the parts of the country “where the local government was not felt.” Mr. H. thought it should be extended further, and that it would be a very efficient measure. He hoped it would not be stricken from the bill.

As to *arming of merchantmen*, Mr. H. considered this also a measure entitled to support. He hoped to see the clause amended by the adoption of the motion of the gentleman from Maryland, extending the aid of the Government to the merchants, and then the measure would be an efficient one, both morally and physically. Mr. H. firmly believed, that these measures, rigorously executed, would suppress piracy, and afford complete protection to our commerce. If he thought otherwise, he would not hesitate a moment in voting for a blockade, or an invasion, or any other act of war, which might be necessary. But he was asked, “what if he was mistaken in that opinion, would he leave our commerce without protection, until the next session of Congress?” To this he would reply, that, if the gentleman would modify this blockade in the following particulars, he would now give it his vote.

1st. That the authority to resort to it should depend on the failure of the other means provided by this act.

2d. That it be, in that case, made applicable, not merely to cases of fresh pursuit, but be a measure of reprisal on the inhabitants of Cuba.

3d. That the measure be taken in concert with other powers, or after a communication with them.

Mr. H. would, even now, move such an amendment, if he did not believe that the Senate was altogether opposed to a blockade in any shape. Should he be mistaken in that opinion, and the Senate should refuse to strike out the clause, he would then submit an amendment. Mr. H. concluded by saying, that, on the whole, he had no doubt of our right to resort to any species of force, a blockade, or to any other act of war, against Cuba. But believing that measures of a milder character might accomplish the object, he was not, at this time, disposed to resort to so strong a measure, unless its exertion were made to depend on the entire failure of all other means.

Mr. VAN BUREN was too sensible of the indulgence he had received from the Senate yesterday, to trespass longer on their time than would be required to notice one or two of the points touched on by the gentleman from South Carolina. That gentleman had done no more than justice to the enormities practised on our fellow-citizens; the documents on our tables were replete with evidence of the most horrid atrocities; but it did not follow that we had a right to resort to any and every measure of redress which might be in our power, whatever might be their effect on the rights of others. However grievous our wrongs, we still owed it not only to ourselves, but to those nations with whom we are at peace, and against whom we have no cause of complaint, to resort to such remedies only as were lawful in us, and not injurious to them. The gentleman from South Carolina had labored to show that a declaration of war was not a necessary preliminary measure to the commencement of hostilities between nations. Mr. V. B. said, there was no doubt that in that the gentleman was correct; whatever might once have been thought upon the subject, the law and the practice had for a long time been different. War might be commenced by acts of aggression. But those acts should be of an appropriate character, such as reprisals, &c. or any act of force against the party *by whom we had been injured*. Was a blockade of their ports, in the first instance, an act of that character? This, said Mr. V. B. was the question, and the only question before the Senate. He contended that it was not, and that for

the plainest of all reasons, because it operated, in the first instance, against our friends, against powers who were not only with, but one of whom had efficiently and zealously co-operated with us in measures for the suppression of piracy. Against the commerce of those nations we were about to exercise acts of unwarranted violence—acts which could not but lead to the most injurious consequences. But it had been said, that, admitting that, by the law of nations, the right of blockade can only be exercised in time of war, this act itself would place us at war with Spain, and thus render the blockade lawful. Mr. V. B. said, that this argument, however imposing it might, on a first impression, appear, was liable to great and unanswerable objections: first, it was in the face of the declaration of the committee, and professions of the Government, both of which disclaimed the idea of attaching such a consequence to the measure they propose: secondly, although Spain might consider it as the commencement of hostilities, she might not—she might consult her true interests, and do us the justice to give us credit for proper motives; if she did, our unwarrantable invasion of the rights of other nations would stand without apology: and even if she did not, and war ensued, we will have anticipated its rights at the expense of our respect for the public law, and for the feelings of friendly powers; either of which would, he thought, be unworthy of the American people.

Mr. SMITH, of Maryland, said, that he had not intended to take any part in the debate at present; but an appeal had been made to the people—1500 copies of the communications which had been made to them by the Executive, had been ordered to be printed, to let the people see that the measure now proposed, was indispensably necessary. If, said Mr. S. I were one of those that thought so, I should certainly unite in opinion with the committee. The chairman of that committee has told us, early in the debate, that the measures employed have been inefficient, and that we have adopted measures of a national kind that are not adequate. Can this be the fact? Can it be possible, that we have not within ourselves means adequate enough, without resorting to so harsh a measure as the one proposed? I have been one of those, said Mr. S. who have supposed that the means furnished by Congress, were quite adequate to the object. Sir, it is in vain for us to pass laws of any kind, unless those laws are executed to the letter. We have passed laws, we have granted money for the suppression of piracy, and if these means were not applied as Congress intended they should be, are we to be charged with having adopted ineffectual measures? On subjects of this kind, it is proper for the representatives of the people to speak out. It is proper for them to defend themselves against the charge. The Navy Department asked for certain means, which were promptly and unanimously given; they were exercised, and found efficient, and completely so. Shall we then, by sanctioning a section of this kind, put in the hands of the Executive the power of declaring war—a power which we alone possess in Congress. We may be led on, step by step, till it becomes necessary to declare war for the honor of the country. I do not say such a thing *will* be done; I only state the case, that it *may* be; and I am unwilling to grant a provisional power, that may lead us into war. I would much rather go to war directly than indirectly. I agree with the gentleman from South Carolina, that we have cause for war against Spain; and if we were to declare it to-morrow, we should be perfectly justified.

Having been told that the means that had been employed were inefficient, I was led to go into a critical examination of the documents on the table; and there, sir, Mr. Mountain declares that, from Spring till October, there was no vessel to protect the commerce of the United States. And the same documents prove the capture of several vessels by the pirates, and that as

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application was made to a British frigate to convoy your ships. It appears very extraordinary to me, sir, that, when the course to be followed was so clearly pointed out in July, it should have been left undone. Why not apply force then? Every thing tends to shew that there wanted nothing but vessels, authorized by law, to be placed there?

If, then, sir, we have efficient means within ourselves, why resort to a scheme of this sort, that may implicate us in difficulties with foreign nations? The gentleman from South Carolina says, very properly, that, on the necessity of the case, depends the propriety of this extraordinary measure. I see no necessity: I see that we have sufficient means within ourselves, and I am unwilling to go into a measure of this kind, which is doubtful in its consequences, when we can suppress piracy without it. I have no hesitation in saying that, if you place a sufficient force on the coast of Cuba, and assist merchant vessels in arming, that alone will be sufficient.—But I go further: surround the island, and keep it constantly surrounded. I would purchase the Robert Fulton steam vessel, and put on board of her a number of barges, with a nine pounder in the bow of each, and let these go along till they get to the east end of the island; let these armed barges search every inlet and creek, and destroy all such boats as they suspect are used for piratical enterprizes. After getting to the east end of the island, let them return again, and so continue. This will probably cost 100,000 dollars. Let larger vessels cruise round the island, and keep in the pirates; and by these measures, I have no doubt, piracy will be suppressed and kept under.

It appears, sir, said Mr. S., that we are not to give power to our merchantmen to arm, for fear they should abuse it. Is there an instance of their having abused such power? No, sir; there is not one. But it likewise appears that they are already authorized to arm; that some have done it, and no complaint has been yet made. All the vessels trading to the East Indies are armed, and no complaint is made. This, then, is an idle fear.

I have always understood that, in the fresh pursuit of an enemy, you have a right to land. It has been done by England, and by ourselves, and Spain has not complained of it. It is a national right, which we can make use of at any time, without law. The passing the law is the only objection I have to it.

The Chairman of the Committee has said that your character demands that you should be prompt and efficacious in your measures, and therefore recommends a blockade. But, will that be efficacious? No, sir; it will be throwing a stone that will hit nobody. The pirates, when chased, do not run into open ports, but they go into the unsettled parts of the country. Blockade the inlets, then, for it is there where you will find them.—This blockading of ports, therefore, is an inefficient measure, which may do some harm, but is not calculated to do any good.

Mr. BARBOUR observed that, if there was a majority of the Senate who approved the principle of the section, under any modification, he hoped they would vote against striking it out; because, if they afterwards failed to put it into the shape they preferred, it would still be in their power to expunge the section, when the bill should be reported to the Senate by the committee of the whole.

Mr. MACON said there was something in this business which he could not understand. Insurance from New York to New Orleans, the Senate was informed, was but one to one and a half per cent. How insurance could be so low, whilst so many piracies were committed, was more than he could comprehend. During the wars between France and England, when a great many captures were made, insurance was not so low as five per cent. Mr. M. then said, he thought that no necessity could justify a breach of the public law. We had endeavored,

and successfully, to preserve that law, and he knew but one instance of its violation—that one he always thought very doubtful. We had constantly maintained, to the broadest extent, neutral rights with every nation with whom we had come in contact. This blockade, to say the least of it, was of doubtful character, and he therefore did not like it. It had struck him as a curious question, what would be the condition of a French or English vessel, if taken breaking this blockade; would she be a prize, or what? He was not willing to consent to any act which would jeopardise the character of the country. National character was like individual character—it ought never to be doubted—it ought ever to be so pure as to command respect.

It was to his mind as clear as the light of day, that the President had the power of suppressing piracy. Mr. Randall had proved, that, as long as vessels of war were there, no piracies had occurred, and he was afraid that carrying money had produced all these evils. As long as the vessels of war were there, the pirates were invisible; but, as soon as they were gone, they came out. This following the pirates on shore, was a much more difficult matter than gentleman had represented it to be. How were the pirates to be known when they got on shore? They might change their clothes, or any thing else. The true way was to catch them on the water, by sending a sufficient force to Cuba, and to hang all that were caught; and when they found that catching and hanging were the same thing, there would soon be an end to piracy.

Mr. M. then asked, why would gentlemen wish to go farther than was necessary? What could be better than possessing the power of doing all they wanted? It seemed to him to be a race which should go farthest in his particular way. What more was necessary than to order the vessels to be taken and the men to be hanged?

On the subject of arming merchantmen, Mr. M. did not think the comparison of the assassin a just one: in individual encounters the consequences fell on themselves alone; but here, the consequences would be much more serious, if the power were abused. He did not suppose that merchantmen, generally, would seek to abuse it, but they were not better than any other class of men, nor did he believe them worse.

As to the effect these measures would produce on Spain, they were not worth thinking of. He considered Spain out of the question. What was Spain? No human being could tell—there were people there, and a sort of Government—but the French were there to keep their own people down. With respect to the people of Cuba, Mr. M. said, he knew little or nothing. He always had understood that the trade to that Island was a most profitable one to the United States. It appeared quite impossible to him that such a state of society could subsist as was described in Cuba; he should hope to find there as many pure as would have saved Sodom and Gomorrah.

Mr. M. said, if he were to liken this blockade to any thing, it would be to the attack on Copenhagen, by the British. Britain was afraid of the naval power of her rival and enemy, and said as Rome did, Carthage must be put down! It was ludicrous to talk of arming a whole nation against 4 or 500 bandits, after the late contest with the British. He saw no necessity for arming the merchantmen. If the navy could not protect the merchantmen, particularly in the American seas, we ought to have neither navy or merchantmen.

He recollected Preble had put an end to the Tripolitan war, and Decatur soon ended the Algerine war.—Both of these people were pirates by trade, by education, and, he had almost said, by religion. Our vessels went there at once; and cannot our vessels catch these Cuba bandits, without our attempting to make an interpolation in the law of nations? It was, he thought, a most difficult thing to alter public law. During the

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American war, all the powers of Europe assembled to do it—Great Britain withstood it, and the public law is now as Great Britain then said it should be.

It appeared to him, from Mr. Randall's report, that nothing but ships were wanting. He had no opinion of stuffing an administration. If they obtained what they wanted, they ought to be held responsible for the success of the means employed. They did not want either armed merchant vessels, or a blockade. Of the latter, the President speaks with great delicacy; and from the former, the Secretary of the Navy thinks mischief may arise. Therefore, he thought it would be wise to give the administration what they wanted, but not more; and that he was willing to do now. He did not wish to make any profession of his wish to see the robbers exterminated, for we were to be judged, not by our words, but by our deeds. There was not a civilized man in the world but would wish it; and he could not call that inhabitant of Cuba a civilized man, that encouraged piracy. They waged war against the whole human race; a war of the most disastrous kind. They could be governed by no rule towards them but that of extermination: and as they could be repressed most efficiently without either blockading them, or arming the merchantmen, he was opposed to both measures.

Mr. HAYNE said, that as the Chairman of the Committee, (Mr. BARBOUR), had expressed a wish that those gentlemen who would, under any circumstance, support a blockade, would not now vote for striking out the clause, because, if they should fail to put it in the shape they preferred, it would still be in their power to expunge the section, when the bill should be reported to the Senate, he was disposed to comply with the wishes of the chairman in that respect, and would, therefore, vote against striking out the clause *at this time*. He should do this, however, with the express understanding, that when the bill should be reported to the Senate, he would move to strike it out, unless it should receive the modifications for which he had contended—that is to say, unless the authority to resort to a blockade should be made to depend on the failure of all the other means provided by the act, and then it should be resorted to as a measure of reprisal, and in concert with other powers, or after proper communications with them.

The gentleman from North Carolina had asked, why will we go further on this subject than is necessary for the object? Mr. H. would answer him in one word.—I believe, said he, that the employment of the naval means of the country will be sufficient for the suppression of piracy, if properly directed; but, as many of my friends think otherwise, and the officers of the government, who will be responsible for the execution of our measures, do not concur in that opinion, I am bound to suppose that I may be mistaken; and, as there will be a long interval between the adjournment of the present and the commencement of the next session of Congress, I am willing to put additional means at the disposal of the Executive, to be resorted to in the event of the failure of all others; for God forbid, sir, that the life of a single citizen should be sacrificed by any remissness on our part, in providing all the means that may become necessary.

The question was then taken on striking out the third section, and decided in the affirmative, by yeas and nays, as follows:

YEAS.—Messrs. Barton, Bell, Benton, Bouligny, Branch, Brown, Chandler, Clayton, Cobb, D'Wolf, Dickerson, Edwards, Elliott, Findlay, Gaillard, Holmes, of Maine, King, of Alab. King, of N. Y. Knight, Lanman, Lloyd, of Md. Lowrie, McIlvaine, McLean, Macon, Palmer, Parrott, Ruggles, Seymour, Smith, Talbot, Taylor, Tazewell, Thomas, Van Buren, Van Dyke, Williams.—37.

NAYS.—Messrs. Barbour, Eaton, Hayne, Holmes, of Miss. Jackson, Johnson, of Ken. Johnston, of Lou. Kelly, Lloyd, of Mass. Mills.—10.

Mr. HOLMES, of Maine, then offered the following, as a substitute for the section just stricken out:

Sec. 3. *And be it further enacted*, That no armed vessel of the United States, authorized and employed for the suppression of piracy, shall be engaged or employed in the transportation of specie, or any other article of freight, unless specially designated therefor by the President of the United States.

Before the question was taken on this amendment,

Mr. VAN BUREN moved to recommit the bill to the Committee on Foreign Relations, with the following instructions:

"Resolved, That the bill "For the suppression of Piracy in the West Indies," be recommitted to the Committee on Foreign Relations, with instructions to report amendments thereto, giving power to the President, on its being satisfactorily proved to him that any of the pirates mentioned in the said act, find refuge in any of the cities or ports of the said Island of Cuba, or other Islands mentioned in the said bill, and that the local governments of the said Islands, on being requested so to do, neglect or refuse to aid in the apprehension, prosecution, and conviction of such pirates, to give authority to the crews of the armed vessels of the United States, under such instructions as may be given them, to land on the said islands, in search of pirates, and there to subdue, vanquish, and capture them, and bring them to the United States for trial and adjudication, as the said instructions of the President of the United States may prescribe: and further, to authorize reprisals on the commerce and property of the inhabitants of the said islands."

On motion of Mr. BARBOUR, the proposed amendment and instructions were ordered to be printed; and The Senate adjourned.

#### HOUSE OF REPRESENTATIVES—SAME DAY.

##### CREEK INDIAN NEGOTIATION.

The resolution offered yesterday by Mr. FORSYTH, calling for the report of the Commissioners appointed to treat with the Creek Indians for a cession of their lands, was taken up.

Mr. FORSYTH said, as he wished to attract the attention of the House and of the public to a subject of very great interest to the state of Georgia, he would state what had been communicated to him respecting it.

The law of the last session, making an appropriation for the extinguishment of the Creek title to lands in Georgia, was founded on a document sent by the President to Congress: a letter from the Commissioners, who had been holding a talk with the Cherokees, which stated, on the authority of the Creek Indian agent, and some of the Creek Chiefs, that that was a favorable time for a treaty with the tribe. After the act passed, when he could not tell, orders were given to the agent to collect them at the Broken Arrow. While this act was under the consideration of a committee, the Indian agent was in Washington, and certain Cherokee chiefs, whose treatment by the Executive, and pretensions, would be recollected. They came to protest against all appropriations to purchase lands from them, and to declare they would dispose of no more, either by sale or exchange. Not satisfied with their own success, they were disposed to extend the benefits of their negotiation to the neighboring tribes. Mr. F. understood that one of the chiefs had sent all their correspondence with the Secretary of War, &c. to the Big Warrior, advising that the Creeks should follow their example. However that might be, certain it was, that some of the Creek chiefs had a meeting at Tuckabatchee, in Alabama, near the town of Montgomery, and determined to follow the pattern of the Cherokees. Not satisfied with this, as the meeting called by the agent was to take place in November, another meeting was held by the Creeks, at

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Pole Cat Spring, in October, and the determination made at Tuckabatchee was confirmed, and ordered to be made public. The two documents were published as a sort of manifesto to the world that no more Creek lands would be sold to the United States. These documents were signed by the Little Prince, his mark, by the King Big Warrior, his mark; the Head Wolf, his mark, &c.; none of the persons signing the first being able to read or write, and but one or two who signed the second. The Commissioners of the United States, on their way to the Broken Arrow, heard, for the first time, of these strange papers, the Indian agent not having considered it his duty either to prevent the determination they announced, or to communicate them to the War Department; the sub-agent, who ate the bread of the United States, was active in promoting these determinations, and was supposed to be the Secretary of one, if not both the meetings. The Commissioners found the Creeks, to the number of ten or fifteen thousand, assembled at the Broken Arrow, ready to assist in consuming the fifty thousand dollars appropriated by Congress for the expenses of the treaty. Their Chiefs, living in Alabama, determined not to make a treaty; the sub-agent, actively employed to defeat the wishes of the Government, and the principal agent acting a part of dignified neutrality, because he had not been instructed by the Secretary of the Department of War to promote the views of Congress, no treaty could be formed, as might have been expected. Notwithstanding the manifesto of the Chiefs, the hostility of the sub-agent, and the dignified neutrality of the principal, the Commissioners found twenty-four Chiefs, representing all the Indians residing in Georgia, willing to remove to the West, and give up all the land occupied by them—all the Creek Indian claim in the limits of that state. These Chiefs represented about ten thousand Indians, and their price, including all the expenses for their removal, was \$300,000. Unfortunately, the Commissioners did not conceive themselves authorized to make a contract with them. One of the Commissioners came to this place to ask that authority from the Executive. It was not given. New instructions had been given, and a new meeting was to be held, from which the President seemed to expect a more favorable result. Mr. F. apprehended that the present effort would not be more fortunate than the last.

Mr. F. said he felt great reluctance to state what he had been informed the Executive had directed to be done in this stage of things. He hoped that the documents might show that he was misinformed. For their insolent interference to obstruct the execution of one of the laws of the United States, the wishes of Congress, and the instructions of the Executive, the Cherokee Chiefs were to be reproved by the Secretary of War. The principal Creek agent, who was a dignified neutral between his own Government and the Creeks; who thought a law of Congress, and the instructions of the Executive to the Commissioners, not sufficient to make it his duty to act with the Commissioners; he was to be reprimanded by the Secretary of War. The only decisive step, was the removal of the sub-agent. The successor of the sub-agent, no doubt warned by the fate of his predecessor, would take care to ape the conduct of the principal, and be ostensibly neutral, secretly hostile. Such were the circumstances under which Mr. F. had felt it his duty to bring the subject before the House, by his resolution, adopted yesterday, and that now under consideration.

The President, in his late message to Congress, had connected the performance of the obligations of the United States to Georgia, with the great plan of collecting all the Indians in our Western territory, for the purpose of civilizing them. Of this plan, it was not now proper to speak. It might be wise, humane, and politic, but Mr. F. protested against connecting the perform-

ance of the obligations of the United States, under the act of cession of 1802, with that plan. He should consider a determination to that effect as an indefinite postponement of justice to Georgia. He hoped the Committee on Indian Affairs would consider them separately, and bring the two subjects separately and distinctly before the House, whatever might be their opinions upon them.

The resolution was then agreed to without opposition.

#### GENERAL APPROPRIATION BILL.

The House then passed to the unfinished business of yesterday, which was the bill making appropriations for the support of Government for the year 1825.

On that section of the bill which makes appropriation for the public buildings in Washington City, Mr. COCKE, of Tenn., moved an amendment, which went to provide that no part of the sum appropriated, should be applied to pay the sum offered by the Commissioner of the Public Buildings for a design to ornament the tympanum of the Portico of the Capitol.

On this amendment some conversation arose between the chairman of the Committee of Ways and Means and the member from Tennessee. It was stated, on one hand, that the offer made by the Commissioner was done in consequence of the advice and direction of the Executive; that it was in coincidence with the course pursued on other similar cases; that the ornament for the Capitol was fit and necessary; and the reward calculated to call forth taste and genius in preparing it, &c. On the other hand, it was contended that the providing of this design was a part of the duty of the architect, who receives a salary for his services—that the offer was unauthorized on the part of the Commissioner, and unnecessary. The amendment, however, was at length withdrawn by the mover.

The following, among other items, were added by way of amendment to this bill:

"For repairs to the General Post Office and yard, \$2,000."

"For paving the footway in front of the public ground on the South side of the Pennsylvania Avenue, between the Capitol and the Navy Office, and for placing stone steps at the several entrances of the Navy Office, \$6,161 97."

A second section was added to the bill, on motion of Mr. McLANE, in the usual form, prohibiting payment of moneys, appropriated by this act, to persons indebted to the United States, until their arrears shall be paid.

And a third section was added, on motion of Mr. VINTON, of Ohio, in the words following:

"Sec. 3. That the Secretary of the Treasury be, and he is hereby, authorized and required to pay, out of any money in the Treasury, not otherwise appropriated, the sum or sums of money to which any person, or the legal representative of any person, may be entitled, by virtue of an act authorizing repayment for land erroneously sold by the United States, upon such person, or his or her legal representative, complying with the requisitions of that act."

Among other amendments proposed,

Mr. COCKE moved to double the appropriation for compensating the messengers who bring to the seat of Government the votes for President and Vice President; and a desultory debate rose on the motion, in which Messrs. McLANE, COCKE, TAYLOR, COOK, WEBSTER, and TUCKER, took part. The amendment was finally withdrawn, there being already a bill passed by the Senate, now before a committee of the House, on the same subject, and it being considered more proper to act upon the subject directly by that bill.

Mr. TATNALL, of Georgia, moved to add to the bill a clause, making provision for the payment of Georgia militia claims, of the period of 1793-94, in which he was supported by Mr. FORSYTH. A question of

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General Appropriation Bill.—Suppression of Piracy.

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order arose, which gave occasion to considerable discussion on the part of Messrs. TATNALL, TAYLOR, FORSYTH, HAMILTON, CAMPBELL, CLAY, and WEBSTER. It was finally decided, that, inasmuch as the report of the Committee on Military Affairs, in respect to those claims, had been taken from a committee of the whole, and recommitted to the committee, with instructions, it was not in order to introduce a proposition into this bill on that subject.

The committee then rose, and reported the bill, as amended, and it was ordered to be engrossed for a third reading.

The House then went into committee of the whole, Mr. LATHROP in the chair, on the bill "making appropriations for the Military Service of the United States, for the year 1825;" which was amended, by the addition of a clause appropriating, for the expense of surveys, &c. made under the act to provide for internal improvements, \$28,567, and then ordered to a third reading.

The same committee then took up the bill "making appropriations for the support of the Navy of the United States, for the year 1825."

Mr. COCKE moved to reduce the amount of the appropriation for contingent expenses of the navy, from \$200,000 to \$195,000.

The motion was resisted by Mr. McLANE, who declared himself ready to prove, by documentary evidence, that the whole amount had been devoted to the objects designated by law, and to those only, and that, instead of being too great, it was, in fact, too small, to meet the necessities of the service.

The motion of Mr. COCKE was negatived.

The contingent fund (for officers' transportation, &c.) which had, but last year, been reduced from 14,000 to 9,000 dollars, was again raised to its former amount, and the 5,000 in arrears for the last year, was provided for by a distinct item of appropriation.

The committee then rose, and reported the bill, which, as amended, was ordered to be engrossed for a third reading.

IN SENATE.—WEDNESDAY, FEBRUARY 2, 1825.

### SUPPRESSION OF PIRACY.

The Senate again took up the bill "for the Suppression of Piracy." The following motion, made yesterday, by Mr. VAN BUREN, being still pending, viz:

*Resolved*, That the bill "For the Suppression of Piracy in the West Indies," be recommitted to the Committee on Foreign Relations, with instructions to report amendments thereto, giving power to the President, on its being satisfactorily proved to him that any of the pirates mentioned in the said act, find refuge in any of the cities or ports of the said Island of Cuba, or other Islands mentioned in the said bill, and that the local Governments of the said Islands, on being requested so to do, neglect or refuse to aid in the apprehension, prosecution, and conviction of such pirates, to give authority to the crews of the armed vessels of the United States, under such instructions as may be given them, to land on the said Islands, in search of pirates, and there to subdue, vanquish, and capture them, and bring them to the United States for trial and adjudication, as the said instructions of the President of the United States may prescribe: and further, to authorize reprisals on the commerce and property of the inhabitants of the said Islands.

Mr. BARBOUR made a few remarks against the principle proposed in the instructions, and also against recommitting the bill to the Committee on Foreign Relations.

Mr. VAN BUREN replied to Mr. B. and had no disposition to burthen the committee with a duty which was not acceptable. As there were many propositions before the Senate for amending the bill, he wished it re-

committed for the purpose of receiving such shape as would be generally agreeable to the Senate; but he would waive his motion until the sense of the Senate had been expressed on those amendments; and he accordingly, for the present, withdrew it.

The question then returned on the following section, which Mr. HOLMES, of Maine, yesterday offered, viz:

"Sec. 3. *And be it further enacted*, That no public armed vessel of the United States, authorized and employed for the suppression of piracy, shall be engaged or employed in the transportation of specie, or any other article of freight, unless specially designated therefor by the President of the United States."

Mr. COBB, of Georgia, moved to strike out the words "unless specially designated therefor by the President of the United States."

Mr. COBB said he thought, from the documents which had been communicated by the Executive, it was sufficiently evident that this business of the transportation of specie in public armed vessels of the United States must be a source of great emolument to those engaged in it. The officers of our naval force being like other men, would be unwilling to relinquish so profitable a trade, and it was a strong impression on his mind, that, so long as the practice continued, piracy never would be suppressed. If piracy were suppressed, there would be no further occasion for their being employed, but, so long as it continued, this system of jobbing would be pursued. Every temptation ought to be removed that would induce them to lax in the discharge of their duties. Let them be employed in the suppression of piracy alone.

Mr. HOLMES, of Maine, said, he understood it had been the practice for the President of the United States to designate the vessels which should be employed in this service of the transportation of specie—but there was nothing prohibitory, in the law and regulations against other vessels doing the same. The consequence had been, that some part of the squadron had been employed in the transportation of specie. He should be unwilling to prevent the Executive designating, if he should see fit, the vessels which should be employed in the transportation of specie; but, at the same time, to say that other public armed vessels, not so designated, should not be so employed, would be to strike at the root of the evil. He thought piracy would have been suppressed by this time, had it not been for the cupidity of our naval officers.

Mr. LLOYD, of Mass., said, that, in the documents on the table, there was but one allegation, and that by an individual, to prove that the public vessels had quitted their station, to transport specie, and had thus left the commerce unprotected. He doubted the existence of this fact to any great extent, and certainly the Senate ought not to legislate on it without having the fullest and most authentic information as to the extent of the practice. They ought, in his opinion, to apply for information to that Department which knew what had been done. There was a regulation by which every officer was obliged to report, on his return home, what he had received; therefore, if the Senate called for information, there was no doubt of its being furnished. Mr. L. said he would suppose that an insurrection should break out in a town where our vessels were stationed—Havana for instance—what would be the consequence? Our merchants had large sums of money there, and had no vessels to carry it away; it would be lost, because the public vessels would be forbidden, by law, to carry it away. Mr. L. said he was willing to agree with the gentleman from Maine, as to prohibiting the transportation of specie, excepting with instructions from the President or head of the Navy Department, but he hoped that his amendment would not go farther.

Mr. COBB said that the gentleman from Massachusetts seemed to doubt the authenticity of the statement



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which had been made; but his (Mr. C's) reasons for not doubting it was this: those documents had been presented to the Senate by the Navy Department, and if that Department had not believed in their authenticity they would never have communicated them. What has thus been laid before us, said Mr. C. is a convincing reason why piracy has not been suppressed, and it is the particular reason of my making the motion. The trade of transporting specie must afford great profit to the naval officers who are engaged in it. This temptation is such as to draw their attention from subjects of infinitely greater importance, and unless it is removed they never will perform their duty.

Mr. MILLIS, of Massachusetts, thought that the amendment would operate to a greater extent than was anticipated. All public armed vessels were authorized to suppress pirates wherever they met with them. The amendment would go to prohibit the transportation of specie in public armed vessels altogether. Piracy did not exist in the West Indies alone. By act of Congress, the slave trade was piracy, and slave dealers were pirates; therefore, a vessel on the coast of Africa would be prohibited transporting specie as well as a vessel in the West India seas. The modification suggested by his colleague, (Mr. LLOYD,) would have been more proper than this; for that would have prohibited at once all armed vessels transporting specie.

The question was then taken on Mr. COBB'S amendment, and lost.

Mr. CHANDLER moved to amend the section so as to prohibit all public armed vessels whatever from transporting specie, except such as should be specially designated by the President of the United States for the purpose; and he said that he was well satisfied that this traffic prevented piracy from being suppressed. The gentlemen of the Navy would, no doubt, like to make a little profit when they could do it legally, and on some stations the practice was very lucrative. Sometimes one commanding officer would have the benefit, sometimes another. Some would make more, and some nothing at all, which produced a soreness amongst the gentlemen of the Navy, while it seemed to divert their attention from the real and important object in view; and as long as this practice continued, the service must suffer by it. It should, therefore, be prohibited, except where the President thought it necessary to point out certain vessels to perform that duty.

Mr. HOLMES, of Maine, said he always thought it was necessary to confine legislation to the subject matter before them—they were now providing for the suppression of piracy, and he hoped they would confine themselves to that subject. If they wished to enact a general law for the regulation of the Navy, they ought to do so. It was a misfortune, he said, that there was not a naval peace establishment adopted, and he thought it was time there was one; but it could not be provided for in a bill intended for a different purpose. The want of such a law had produced all the evils complained of, and many more; and one principle which ought to be in such a law, was that which his colleague had suggested. They had not yet been able to pass a general bill, or to do any thing more for the regulation of the Navy than regarded the pay of the sailors; and the pay of the officers was provided for only by restrictions in the appropriation bill. He regretted these things was not more specially provided for, but it was not regular to attempt it in a bill of this sort. If the Legislature confined themselves to the object before them, he thought they could not miss it. With regard to his own amendment, he thought it was a proper one. Some were of opinion he had gone too far, but others thought he had not gone far enough. He agreed with the gentleman from Mass. that the President ought to have the power of designating the vessels which should be employed, but he could not make the amendment he suggested.

Mr. LLOYD, of Md., said, that last session the Senate had passed a bill regulating the transportation of specie, and sent it to the other House, but it was not acted on. They had also passed a bill authorizing the building of ten sloops of war, but it had not been acted on. Were they to be told that these sloops of war were necessary for the suppression of piracy, or that they were intended exclusively for that object? No; they were necessary for our service, and he believed it was enough to authorize a law to build them, no matter whether they were connected with the piratical or any other question. He was very anxious to suppress this transportation of specie in public armed vessels. It was necessary, as far as regarded the moral and physical force of the Navy, that it should be prohibited, not only in the Gulf of Mexico, but in every part of the world. We were now beginning to feel the ill effects of this system; the squadron sent to the Gulf of Mexico, was useless, from this cause. In the South sea this traffic for such he must call it—was carried on to a greater extent than in any other part, and it would have the same effect in every part of the world—that of impairing the moral and physical force of the Navy. He did not perceive any thing incongruous in making this general provision in the bill for the suppression of piracy; it was as much connected with it as the bill for building ten sloops of war. He believed our naval officers to be the bravest and best on the face of the globe, but, if we placed temptations in their way, which it was not in the power of human nature to resist, we lessened their moral elevation, and lowered that chivalrous character which they ought always to preserve. He did not suspect them of sacrificing their duty, but it was necessary to guard them from all those temptations which might induce them to do so. The moment a soldier or officer lost that high principle which ought to characterize a military man, and became a trader in gold and silver, that moment his moral force was destroyed. What danger could result to the interest of this country from regulating the transportation of specie? They would not allow the President to point out where it should be carried. Did they doubt that he would ever refuse to transport the specie of the citizens of America? If they did doubt it, they must suppose he was unmindful of the interest of those citizens. It might be necessary, and in many instances be proper, to transport specie in armed vessels, but let this specie belong to the citizens of America, and not that belonging to foreign powers. If this provision were made, it would redound to the benefit of the commerce of the country, and the good of the Navy; and as they could not get this provision in a direct bill, they would be satisfied to procure it otherwise.

Mr. LLOYD, of Massachusetts, said, the current was running very strong against the transportation of specie in public vessels; but he believed it to be a very useful thing. It was not at all a novel principle, but had been acted upon by Great Britain for ages. She expressly authorized her naval officers to do it. If abuses crept into this system, why were they not remedied? why put this sweeping restriction on it? He believed it was a thing which might be easily regulated. If the President were required to designate the vessels which were to perform this duty, how could he possibly do it? how could he foresee what occurrences might take place, or what changes or emergencies happen in the West Indies or elsewhere? Mr. L. observed there had been a sweeping denunciation pronounced against the whole of the naval officers employed in the West India service. Would the Senate sanction such a charge as this without properly ascertaining the facts on which it was founded? He looked upon it in a very serious light. If the gentleman would so modify his resolution as to prohibit the transportation of specie, except with instructions from the President, he would agree with him. As this charge had been seriously made, this bill should lie on the ta-

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ble with the amendment, till they could ascertain what were the instructions given by the Secretary of the Navy to the officers, as regarded the transportation of specie, and to what extent the practice had prevailed.

Mr. SMITH said he was against the motion made by the gentleman from Maine, (Mr. CHANDLER.) The officers of the Navy had not, in his opinion, done any thing to draw censure on them; they had acted according to their instructions. [Here Mr. SMITH quoted the instructions from the documents on the table.] These, said Mr. S. being the instructions, no possible blame could be attached to the officers of the Navy, for conforming to them. Mr. S. then remarked that we carried on a great and increasing trade through Alvarado and Tampico; the returns were principally in specie, for there was nothing else to be got there, and it was very unsafe to trust this on board of unarmed vessels. Government might direct one vessel, and one only, to transport the specie, but, without that protection, it would be very dangerous to carry on the trade. Our manufactures, said Mr. S. are preferred to all others in the South American market, and our merchants had established their agents in the interior, to whom they sent their manufactures for sale—the returns were generally in specie; and would they endanger this trade, for fear that the naval officers should be drawn away from their employment? He could not understand this. The amendment, as it now stood, without any alteration to it, was a very good one. It might be, Mr. S. said, that the prejudices of education prevented him from seeing any harm that could arise from ships of war bringing home money from the Pacific. The trade there brought much money into the U. States. The instructions forbid the Captains, on that coast, from bringing home any money but what belongs to merchants of the United States. You pass this bill, said Mr. S. and it is an interdict. How are your officers to know of the passage of this bill providing against it? or how is the President to designate the vessel that is to be employed? Large sums of money are there belonging to merchants. The agents wish to remit it, but the Captain who is there may not, under this amendment, take it, because he is not the Captain designated. We have a very extensive trade with South America. From the Middle States we supply them with vast quantities of flour in particular. They sell their cargoes at Lima. Part of the produce of the sale they lay out in copper, and the rest they have to send home in specie. But now they will be utterly unable to do so, unless the very vessel the President has designated happens to be on the spot. A great evil will arise from this, because the merchants will be compelled to send their money home in unarmed vessels. This will be known, and pirates will lay in wait for, and capture them. If our naval officers do now and then make a little money, by bringing home specie, I, said Mr. S. shall be very well pleased. Their pay is merely a living, and their obtaining a little money by these means, does harm to nobody. Your trade in the Pacific does not suffer by it. The British allow their Captains, on the station, to make what they can, and they not only bring home money for their own merchants, but bring it for any other party that will pay them for it. It consequently has become a drug in England. What we forbid, they take. I spoke lately with an officer, who informed me that he was requested to bring home a sum of about two millions of dollars, but he dare not do it; and the British did, and received the premium for it. If the officer had been allowed to have done it, he would have made a considerable sum of money, and this quantity of specie would have been introduced into this country, instead of being carried to England. The proposed amendment, Mr. S. thought, would create a great evil to remedy a small one.

Mr. CHANDLER said he had never, before this time, been given to understand that the object of building a

fleet was to make them carriers of gold and silver for the profit of the officers of the Navy. He did not think the amendment would operate, as his friend from Maryland seemed to think it would; if the amendment succeeded, the President might authorize all ships to be carriers, and under such circumstances as he might direct. Mr. C. said his object was not to prevent the carrying of specie, under any circumstances whatever, but, if it were to be carried at all, the Navy ought not to profit by it—if their pay was not sufficient, he would say, give them more, but do not let them depend on individual merchants of the United States for their compensation.

Mr. LLOYD, of Maryland, said, that he had engaged unexpectedly in the debate. He had certainly been misunderstood if he had been supposed to have said, or intended to have said, any thing disrespectful of the officers of the Navy generally. He believed they were inferior to none in respectability; but they were like other classes of men, and there might be some amongst them who were not quite what they ought to be. They were not now erecting a tribunal to decide on the merits of their naval officers—they were trying now to erect a system for the suppression of piracy, by which they might remove all the obstacles which were stated to them by the President, as existing unfavorable to that view. They were told, amongst other things, by the respectable agent, (Mr. Randall,) that the transportation of specie through the Gulf of Mexico, has been one of the means of preventing the suppression of piracy. Was the Senate to wait till these officers were tried by Court Martial before it gave credence to the President of the United States? for, Mr. L. said, he considered the documents being communicated to the Senate, a sufficient proof that the President believed them to be true. This evidence sufficiently proved, that the system of transporting specie had been destructive to the discipline of the squadron in that quarter. What, then, were they to do? They were, if possible, to prevent a recurrence of that system, and, in so doing, they should not pretend to decide on the guilt or innocence of the officers who have commanded on that station. They were told that it was necessary that this practice should be suppressed: therefore, they ought to pass the amendment now proposed. He repeated he meant no reflection on the officers of the Navy generally. He was told by his colleague, that, to remove a small evil, a greater one was to be created; that there was a very profitable trade between the United States and the Pacific; that the returns were made in specie, and it was necessary that our ships should transport this specie. But he would ask him, where any considerable trade was carried on with these ports, was there a single dollar brought home in public armed vessels? The trade, said Mr. L. was carried on in unarmed vessels, and, month after month, vessels arrived at Baltimore, bringing home large amounts in specie—and, if this trade could be carried on in safety to Baltimore, it could be carried on to any other ports of the Union, without the intervention of public armed vessels.

With regard to the transportation of specie from the Pacific, Mr. L. said, it did not often occur that the public armed vessels brought home much from that part of the world. The money made by transportation did not result from the home trade, but from carrying money from port to port in South America. This traffic, Mr. L. contended, was a violation of the laws of nations; our ships of war were converted into insurance offices; the money of the belligerents was put on board, and our officers received the premiums. This ought certainly to be prohibited. The cupidity of the officers ought not to be suffered to compromise the peace of the nation. Nothing but the weakness of the different powers in that part of the world, had prevented our vessels from being attacked on these very grounds. If England and France were at war, would such a thing be suffered?

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Doubtless it would not, and it did not become the dignity of Government to countenance an act towards a weak power, that she would not do towards a stronger one. Supposing that, after this amendment should have passed, a public armed vessel should transport specie, was there any thing in this amendment to prevent it? Till the law reached the Pacific, the commanders of vessels would act under the instructions they already had. If there were any vessel to carry out this law, and the President had time, he would inform the officers there at once, and would designate the vessel which was to bring home the specie, if it brought it to American citizens, and, if he had not time, they would act under the instructions they now had—and no injury would be done to the nation.

In regard to the case cited of the British navy, Mr. L. observed that we had a navy which could stand on its own merits and required no precedent from the British Navy to give it consequence; and we had departed, in many instances, from the practices of the British Navy, many of which were bad enough.

Mr. HAYNE said, that this provision went to make a regulation which would affect the commerce of the United States to a great extent. The object of this bill was to suppress piracy in the West Indies, and any provision might be grafted on it that would tend to assist that object; they might declare the squadron should not be diverted from that one object; should not be sent to the coast of Africa or to Mexico; they might make any such limitations as those; but, when they undertook to make a general regulation for the commerce and Navy of the United States, they opened a wide field for discussion, and it would be impossible to perceive where it would terminate. At the last session, this very point was determined, that the interest of commerce required that this privilege should not be altogether destroyed—but that it should be regulated; accordingly, it was submitted to a committee, and great attention was bestowed on it; a bill was reported for the regulation of the practice, and all agreed to it; and it was not their fault that this was not now a law. But, if the House said they would now go into the consideration of regulations for the transportation of specie, it would be necessary for them to rise, to move to amend the amendment of the gentleman from Maine, by adding the clauses of the bill of last session. Was the Senate prepared for this? No. It would be better to suffer this bill to depend upon its own merits, and then he would agree with the gentleman on the proposition as related to the transportation of specie. This was a business of much importance to the commercial part of the Union, and he thought at least they ought to confine their deliberations to the object in view, which was the suppression of piracy in the West Indies.

On the question being taken on Mr. CHANDLER'S amendment, it was decided in the negative.

Mr. LLOYD, of Massachusetts, then moved to strike out of the section the words "specially designated," and insert instead, the words *in conformity with instructions*.

Mr. L. said, he did not like to undertake to make remarks, without having evidence before him; but he felt himself compelled to do so, to do away the impression that might be made by the observation of the gentleman from Maryland, (Mr. LOXN,) that the public ships were converted into insurance offices. This would indeed be a belligerent measure, and would justify the detention and capture of such ships. His impression was, that it would turn out, that this practice was prohibited by the instructions of the Navy Department, and therefore the allegation would prove unfounded. Mr. L. said, we had lost at one time 100,000 dollars of specie, by there being no vessel at hand to take it away. He inquired how it was possible to point out which should be the vessel? A large quantity of money might be

collected together, and a vessel off the port refuse to take it, because she was not the vessel designated. Meanwhile an invading army might come down and carry off the specie, because the vessel designated to take it away, was a hundred miles off, and none other dared to do it.

Mr. HOLMES, of Maine, said, that the President would point out the vessels on the West India station to perform that duty. There were vessels enough for that particular species of service, and the others should not be suffered to engage in it. He did not believe that the merchants were in any danger of losing their money by an insurrection in that quarter. The Senate, he said, were now legislating for the safety of the lives of their fellow-citizens, and to protect them against lawless butchers; and if the President gave general instructions to the fleet, there seemed to be but little danger of those instructions being abused. He esteemed the officers of the navy, but they were but men, and might become wicked, and might become so in proportion to the temptation. With all his affection for the navy, he had some fears that it was not on so good a standing as it was at the close of the last war. He was afraid that, if there were another war, instead of seeking the enemy as they had done before, some would be found, who would be more inclined to act as privateers. Part of our navy was in port, and part employed, and there was scarcely a breeze that blew, but what brought intelligence of discord and disagreement among the officers. One half were engaged in sitting on courts-martial to try the others, and one of high rank was sent for home to answer for his conduct. What is the reason, said Mr. H. that, two years ago, our commerce and sailors were efficiently protected from the depredations of these pirates, and now it cannot be done, though in possession of the same means? You are told by the document on the table, from your respectable agent in Cuba. I think we are bound to believe in it, taken in connexion with the supposition that the same effect is not now produced that was formerly, although the same means are employed. The complaint is made to you, and you are to prescribe the proper remedy, and you are doing it in endeavoring to restrain, in some measure, the evil complained of.

Mr. BARBOUR expressed his regret that the amendment had ever been introduced at all. The attention of the Senate had been drawn off by it from the object in view, which was the bill to suppress piracy, to one which bore altogether a distinct character. Independent of any legislative measures on the subject, if information reached the proper department, to whom was imparted the capacity to regulate it, that the naval officers had not been sufficiently attentive to their duty, but had suffered themselves to be seduced from it, it would be their bounden duty to give the necessary instructions to put a stop to such abuses. Mr. B. inquired, whether it would not be possible to effect a compromise between the parties, so as to get clear of the general question in any instance, and to confine it to piracy in the West Indies. If, after the word piracy, *aforsaid* were added, it would get rid of all the difficulties. The effect of this provision would then be limited to the squadron in the West Indies.

Mr. TAZEWEILL observed, that there were pirates in many other parts of the world besides the West Indies. The difference between the object that his colleague had in view, and that of the gentleman from Massachusetts, would best be exhibited by supposing the word piracy struck out from the third section, and *piracies aforsaid* put in its place. There were pirates in many parts. Slave traders were pirates; pirates, there were found also in the East Indies, in the Straits of Sumatra, and in the Pacific Ocean. The object of this section was to impose restrictions by law, so that no public armed vessel, engaged in the suppression of piracy, should engage in the transportation of specie. But they

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wanted no instructions; they had them already; for it was a portion of the duty of every public vessel to suppress pirates, wherever they found them, and there was no better way of assisting commerce than to protect it from the depredations of these freebooters.

The question being on Mr. LLOYD'S motion to strike out the words "*specially designated*," and insert *in conformity with instructions*, was decided in the affirmative—ayes 27.

Mr. BARBOUR then moved the amendment he had just before suggested, (limiting the operation of the section to the West Indies,) and it was agreed to.

Mr. PARROTT moved to strike out the words "or any other articles of freight," because public vessels were seldom or never employed in transporting any thing but specie or bullion.

After some conversation, this motion was lost; and then

The question being taken on the section, it was rejected—ayes 18, noes 20.

Mr. SMITH then moved the amendment which he had suggested some days before, and which is as follows:

"*And be it further enacted*, That the Collectors of the several ports of the United States be, and they are hereby, authorized to pay to the owner or owners of any merchant vessel of the United States, which shall clear out for, and *bona fide* be bound to, any island in the West Indies, north and west of the Island of St. Thomas, or any port in the Gulf of Mexico, north of the state of Colombia, the sum of — dollars, for every gun of a calibre not less than four pounds, which may be mounted on board such vessel: *Provided*, That the owner or owners shall have furnished for each gun, at least thirty rounds of ammunition, ten boarding pikes, and ten muskets, with at least thirty-six cartridges for each musket, and shall have furnished three men at least, for each gun so mounted: *And provided, further*, That such payment shall only be made on the report of the Surveyor of the port being produced to the said Collector, that such armament is actually on board such vessel, and such number of men had been engaged for the voyage.

"*And be it further enacted*, That the President be, and he is hereby, authorized to purchase a steamboat, of the largest size, and arm and man the same in such a manner as he may deem proper; and, also, to cause to be built four barges or launches, each to mount a gun on the bow, of a calibre to carry a shot not less than six pounds, and capable of carrying thirty men."

Mr. S. said, he was aware that the proposition which he had made, was, in some degree, opposed to the opinion expressed by the Secretary of the Navy; but, with all the respect he entertained for that gentleman, he must submit that some information had been given to the House which touched the welfare of the nation. He had generally been of opinion that they were a body instituted by the constitution to afford advice and assistance to the Government—that they were mutually useful in assisting each other. The great object of the bill was to destroy piracy. It was the duty of all to aid in the accomplishing of it, and the most effectual mode of doing it would be to take from the pirates all hope of profit. When they found they were constantly resisted, and they risked their lives with but little chance of plunder, they would seek some more honest mode of employment. But merchant vessels found it too expensive to arm. It consumed the profits of the voyage, which were never great. The object of this amendment was to induce them to arm, by assistance from Government, and he thought, if the insurance offices were to make a distinction between those vessels that were armed and those that were not, it would go far to make them all arm.

Mr. MILLS expressed his approbation of the section that was under consideration. He thought it a matter of economy—because, the more armed merchantmen

there were, the fewer public vessels would be required to be on the station. It was important in the view of humanity—because, merchant vessels being always armed, would be able to defend themselves wherever they were attacked. They would be competent to destroy all those pirates who were in the habit of sallying out in small boats to commit their depredations.

Mr. LLOYD, of Massachusetts, said that this trade occupied a capital of seven millions of dollars, and that an average of two hundred vessels, comprising one hundred thousand tons, were employed in it. Granting a privilege to arm would be of no service to the greater part of these vessels, to the many small traders from the ports of North Carolina, &c. because their profits would not admit of it. If it was meant that they should defend themselves, this bounty was the only means of enabling them to do it; and if that were not extended to them, they must give up the trade, which would become confined to a few wealthy individuals, who could afford to arm.

Mr. SMITH proposed to fill the blank in his amendment with eight hundred dollars, that is, two hundred for each gun.

Mr. EATON observed, that the expense which would be incurred by Government from such a measure, might be greater than they were aware of. The number of ships were two hundred, and if they made only two voyages a year, there would be a drain on the Treasury to the amount of two hundred and forty thousand dollars—a sum almost sufficient to build a handsome frigate. Besides, it might be made a matter of speculation: persons might arm vessels, and when they got their clearance, they would receive the bounty, and were not obliged to go to Cuba. He submitted whether these things were not worthy of some consideration.

The Senate then adjourned.

#### HOUSE OF REPRESENTATIVES—SAME DAY.

##### ELECTION OF PRESIDENT.

On motion of Mr. WRIGHT, of Ohio, the House then resolved itself into a committee of the whole on the state of the Union, and took up the report of the Select Committee appointed to prepare rules to be observed by the House in choosing a President of the United States.

The report was read through, and then

The rules were read and considered separately. On the first rule some conversation took place between Mr. BASSETT, of Va. and Mr. WRIGHT, the chairman of the Select Committee. No alteration, however, was made in the rule.

The second rule was then read, and no objections were made to it.

The third rule was read, as follows:

3d. The doors of the Hall shall be closed during the balloting, except against members of the Senate and the officers of the House; and the galleries shall be cleared on the request of the delegation of any one state.

Mr. INGHAM, of Pennsylvania, moved to amend this rule by striking out the last clause, viz: "*and the galleries shall be cleared on the request of the delegation of any one State.*" Mr. I. stated that, as a member of the Select Committee who had made the present report, he had, when this rule was brought forward in the committee, objected to that part of it which he now moved to strike out; and he had objected then, as he did now, to the clause in question, because he apprehended that there was no good reason for putting it in the power of the delegation of a single state, (consisting, in some instances, of a single individual,) to clear the galleries of this House. He could not conceive that there was any need to go into conclave in order to conduct the approaching election. It was not a measure involving our relations with foreign nations, but a matter of a purely

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domestic character. Yet this rule enforces secrecy, in regard to the transaction, if required even by a single individual, and that in the most obnoxious form. He had rather have the rule made absolute at once, and say that the galleries, as well as the doors of the House, should be closed, than to give authority to the delegation of one state to have them cleared. He was at a loss to account for such a proposition. He supposed that there must be some special reason for granting such a power, but he could not conceive what it was. Was any distrust entertained of the personal safety of members of this House? Surely, the power of the Speaker over the galleries would be as great on the contemplated occasion, as at the present moment; and the existing rules of the House clothed him with full authority to have the galleries cleared in case of disorder. Believing that no good reason existed for the clause in question, he hoped it would be stricken out.

Mr. McLANE, of Delaware, said, that, when the honorable member from Pennsylvania rose, he had been about to offer an amendment to the rule, in conformity with the opinion he had expressed, when in committee; and he should now acquiesce in the amendment which that gentleman had offered, provided the principle on which he himself wished to go, was adopted by the House. He was for clearing the galleries altogether, without leaving it to the delegation of any state to require that it should be done. In giving his reasons, in favor of this course, he wished it to be distinctly understood, that any remarks he might make, had no reference, whatever, to the peculiar state of things existing at the present moment. He thought the question ought to be treated as involving an important precedent, and ought to be considered on principles that were to govern on this occasion, and all others: not only now, but hereafter. He felt himself called on by his duty, to state these principles. He felt, very fully, the responsibility of his situation, and wished to assert the rights which he conceived to pertain to the members of this House, at the present moment, while the nation was in a state of calmness and quiet; a time peculiarly favorable for the adoption of rules calculated to provide for a season of great party excitement.

Mr. McLANE asked, Why ought the galleries to be open? Why must this balloting be conducted in public? In electing a President, the members of the House were called to act, not as Representatives of the people, but, as umpires, to do that which the people have tried to do, and have not been able to accomplish. The people have tried to elect a President: they have failed to do so. The House of Representatives are then empowered to choose one for them. This power is not delegated to them by their constituents, but by the Constitution: and, in exercising it, they have no peculiar relation to their constituents, and are not responsible to them, further than every honest man is responsible to his conscience and his country for his public acts. He should consider the question now presented as a new one, and should put wholly aside what had at any time been done respecting it. Who (asked Mr. M'L.) has a right to inspect my decision between conflicting claims to the Presidency? In ordinary cases he granted that the people had a right to look to the acts of their Representatives, and exercise a sort of inspection over them. Yet, even this was not always permitted to them by the Constitution. It provides that, in certain cases, the public eye shall be excluded, either when the subject of deliberation is of such a nature that an important public measure must be frustrated, if prematurely disclosed, or when, from the excited state of public feeling, an improper influence is apprehended, as endangering the freedom of debate. No such state of feeling existed now, but it not only might exist, and that in an alarming degree, but to such a degree as to become wholly irresistible. If the principle shall once be established, that

the representatives of this people, standing on this floor to vote or to debate, are improperly to be controlled, it is in those galleries that the object is to be effected. If ever popular tumult, and a general excitement of national feeling, are to jeopardize the freedom, and endanger the purity, of this body, it is in those galleries that they will shew their power.

For his own part, Mr. M'L. said, he thought that, in so important an act as the choice of the Chief Magistrate of this nation, it was fit and becoming that members should be left to act from the cool dictates of their judgment, and that they alone were the judges how they ought to act. With them, the constitution had entrusted the duty, and there it might be safely trusted. Mr. M'L. said, that he made these remarks from the fullest conviction of their truth. He thought that now, in a time of public tranquillity, a precedent might be set that would prove valuable hereafter. He felt great deference, also, for the precedent that had been already established in this respect. At the election of a President in 1801, this subject had been entrusted to able hands, and, after full deliberation, they had thought it expedient to admit no person as a spectator of the election but members of the Senate and officers of this House, and the election was so conducted.

Mr. BUCHANAN said he rose with diffidence to express his opinion upon this subject. Like his friend from Delaware, (Mr. McLANE,) he disclaimed the intention of making any remark which might have an allusion to the peculiar situation of the members of this House, in regard to the approaching election. He considered the present to be a question of great importance, and that its decision would establish a precedent, which, in future times, might have a powerful influence upon the interests of this country. He was sorry to say he had arrived at a conclusion in direct opposition to that of his friend from Delaware, (Mr. McLANE.) The reasons which had led him to that result, he would state to the House.

The American people, said Mr. B. have a right to be present and inspect all the proceedings of their representatives, unless their own interest forbids it. In relation to our concerns with foreign Governments, it may become necessary to close our galleries. Our designs, in such cases, might be frustrated, if secrecy were not, for a time, preserved. Whenever there shall be disorder in the gallery, we have also a right to clear it, and are not bound to suffer our proceedings to be interrupted. Except in these cases, he at present could recollect none which would justify the House in excluding the people.

In electing a President of the United States, said Mr. B. we are, in my opinion, peculiarly the representatives of the people. On that important occasion we shall, emphatically, represent their majesty. We do not make a President for ourselves only, but also for the whole people of the United States. They have a right to insist that it shall be done in public. He, therefore, protested against going into a secret conclave, when the House should decide this all important question. He said that the doctrine of the gentleman from Delaware, (Mr. McLANE,) was altogether new to his mind. That gentleman has alleged that we are called upon to elect a President, not as the representatives of the people, but by virtue of the constitution. Sir, said Mr. B. who created the constitution? Was it not the people of the United States? And did they not, by this very instrument, delegate to us, as representatives, the power of electing a President for them? It is by virtue of this instrument we hold our seats here. And, if there be any case in which we are bound to obey their will, this is peculiarly that one. To them we must be answerable for the proper exercise of this duty.

What are the consequences, said Mr. B. which will result from closing the doors of the gallery? We shall



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impart to the election an air of mystery We shall give exercise to the imaginations of the multitude, in conjecturing what scenes are acting within this Hall. Busy Rumour, with her hundred tongues, will circulate reports of wicked combinations, and of corruption, which have no existence. Let the people see what we are doing; let them know that it is neither more nor less than putting our ballots into the boxes, and they will soon become satisfied with the spectacle, and retire.

The gentleman from Delaware, (Mr. McLANE,) has urged upon us the precedent which now exists on this subject. Mr. B. said, he revered the men of former days, by whom this precedent was established. He had good reason, however, to believe, that the intense excitement which existed at that time among the people, at the Seat of Government, was occasioned, in a considerable degree, by their exclusion from the gallery.—They came in crowds into the House, but were prohibited from entering the Hall. Currents and counter-currents of feeling kept them continually agitated. New conjectures of what was doing within, were constantly spreading among them. Mystery always gives birth to suspicion. If those people had been permitted to enter, much of the excitement which then prevailed would never have existed.

It has been said, that there might, and probably would be disorder, if we admitted the people into the gallery. Mr. B. could scarcely believe this possible. He had too high an opinion of the American people to suffer himself to entertain such an apprehension. Should we, however, be mistaken, where is the power of the Speaker? Where that of the House? We can then turn them out, and we shall then have a sufficient apology for doing so. But, to declare, in the first instance, that they shall be excluded, upon the request of any one out of twenty-four states, would be a libel both upon the people of the United States and the members of this House. Mr. B. asked pardon for this expression, if it were considered too harsh.

Mr. B. said he knew well his friend from Delaware was willing that all his conduct, in regard to the Presidential question, should be exhibited before the public, and that it was principle, and principle alone, which had suggested his remarks.

That which gives this subject its chief importance, Mr. B. said, is the precedent. He was anxious that it should be settled on sure foundations. If the rule, in its present form, should be adopted, it may, and probably will, be dangerous in future times. At present, our Republic is in its infancy. At this time, he entertained no fear of corruption. In the approaching election, it can therefore make but little difference, whether the gallery shall be opened or closed. But the days of darkness may, and, unless we shall escape the fate of all other Republics, will come upon us. Corruption may yet stalk abroad over our happy land. When she aims a blow against the liberties of the people, it will be done in secret. Such deeds always shun the light of day.—They can be perpetrated, with a much greater chance of success, in the secrecy of an electoral conclave, than when the proceedings of the House are fully exposed to the public view. Let us then establish a precedent, which will have a strong tendency to prevent corrupt practices hereafter.

Mr. B. concluded by observing that, whether we regard the precedent to be set, the nature of our government, our own character, or that of the people whom we represent, they all conspire to induce us to adopt the amendment.

Mr. LIVERMORE, of N. H. thought there was no necessity for any further rule in relation to the galleries, than that which now existed. Provision was already made to clear the galleries whenever the House thought proper. This was sufficient. Why should a majority of all the members surrender this power to the delega-

tion of a single state? He saw no reason. Why, asked Mr. L. are gentlemen so much alarmed? He was persuaded that no more disorder was to be apprehended from the gallery, in conducting an election of President of the United States, than in choosing a Sergeant-at-Arms for this House. For himself, he hated all mystery. He considered it a characteristic attendant of tyrannical governments; and he thought that the proposal to conduct this election in secret, was a proof that we were not yet quite divested of certain old notions, which our ancestors brought with them from the other side of the Atlantic. He hoped that all that would be done, on this occasion, would be done in a plain, manly, simple, republican manner.

Mr. WEBSTER, of Massachusetts, would say a few words on the question, premising, that more importance seemed to be attached to it than he thought belonged to it. He presumed no practical inconvenience would arise, whether the motion prevailed or not; and yet, perhaps, it might be well to consider the subject duly, as, hereafter, possibly, the question might be of consequence. He did not see any particular benefit arising from providing that the galleries should, at all events, be open. There could be no debate when the House was proceeding in the election; and the voting must be by ballot. There was nothing to be done or said, but to give the ballots and count them. Something had been said of the superintendence which the people might exercise on this occasion, if the galleries were open.—That was what he did not exactly understand. The people of the United States would hardly be in the gallery. Some hundred or two of the inhabitants of this city, those who should get up earliest; and get seats first, would be accommodated in the gallery, and others could not get in. He believed that he himself, finding some difference of opinion in the committee, upon the former rule, had suggested this modification. He was entirely willing the galleries should be open; and yet he was entirely willing to have them closed, if any state desired it. And, particularly, as it would be very inconvenient to discuss and settle these questions, after the House had begun to act as states, it seemed to him reasonable to make provision, before hand, for this, as for other cases. He regretted both that the gentleman from Pennsylvania wished to expunge the rule altogether, and that the gentleman from Delaware wished to shut the galleries altogether. He thought the rule would do very well as it stood. It should be considered, that in some cases, very many persons were to express the voice of a state; in other cases, a single individual. Now, if either a numerous delegation, or a single individual representing a state, expressed a wish that spectators should not be admitted to the gallery, he was willing to indulge that request—so much the rule provided, and no more. He repeated, however, that he thought a very unsuitable and disproportionate importance might be given to this question, which he should much regret.

Mr. WRIGHT, of Ohio, said, that, individually, he had no objection to the amendment. If it were required to give publicity to the proceedings of the House, upon this subject, he should certainly favor it, because he was generally of opinion the affairs of the Government should be conducted openly in the face of the world, as he considered the Government as resting on the will and information of the people. But, Mr. W. said, in the discharge of the duties now to be undertaken, we ought to look to a future time, when the country shall be in a state of excitement, that shall reach and affect those in the galleries, and thence operate on the House. It will be recollected that the only time at which this House had heretofore exercised the power of electing a President, it had been solemnly decided the doors should be closed, except as to members of the Senate. That determination was not made without deliberation, but upon solemn debate, and by a vote by yeas and nays. Mr. W.

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said he felt, in some measure, the influence of that precedent, and had never heard any objection to the mode of conducting the ballotings on that occasion.

In reply to those who seemed to suppose it impossible that any disturbance should take place in the galleries, Mr. W. said he had an exalted opinion of the virtue and intelligence of the people; but we need not shut our eyes upon the evidence before us, and we need not go further back than one year for a most glaring instance of excitement and disorder in the gallery of a Legislative Hall of one of the states of this Union, while the Legislature were transacting business relating to the very election, the determination of which is now devolved on us by the Constitution; and perhaps, he said, it would not be going too far to say that excitement might be feared now. Gentlemen seemed to suppose that, by closing the doors, an injunction of secrecy was imposed on the members and officers of the House, in regard to the proceedings, and that the whole were to remain secret. That, Mr. W. said, was not the case—the rule proposed no such thing: publicity could easily be given to every thing done. The journals were free for inspection, and it was surely safer to rely on them, than reports from the galleries. It had been well observed by the gentleman from Massachusetts, (Mr. WESTER,) that all the proceedings relating to the election, were to be without debate; that, besides the ballotings, all were conducted by motion, second, and decision. This being the case, the results were all that could be communicated to the people in the galleries, and they would be as well communicated at the doors of the House. All that those in the galleries could see or hear in addition to the results, would be the mechanical operation of dropping the ballots into the boxes and lifting them out again. I, said Mr. W. would vote as readily against the imposition of an injunction of secrecy, on the proceedings relating to the election, as the gentleman from Pennsylvania (Mr. INGHAM,) or any other gentleman on this floor; but I cannot admit that any such proposition is embraced in this rule, as it stands.

Sir, said Mr. W. it is not the people of the United States, the sober, thinking people, that will be found in your galleries on such occasions; no, they are at home, attending to their farms, their merchandise, their various other avocations; they will not assemble in the galleries, or be hereafter affected by the precedent you establish. It will be the artful, intriguing, designing politicians, from various parts of the country, to witness, and if it can be, to exert an improper influence, over your proceedings, and these I am not very solicitous to accommodate.

I hope, sir, the amendment will not prevail, and that we shall not, against the wish of any one state, keep the galleries open for the exertion of undue influence, or to place members in a situation where any one can suppose they are unduly operated on.

Mr. ROSS, of Ohio, observed, that, according to his understanding of the proposed rule, if it was adopted, the proceedings of the House would remain, at least for the time, completely in the dark. The demand of a single state, not even seconded by another state, was to be of itself enough to compel the House to clear the galleries. Why was this rule to be adopted? The only reasons he had heard advanced were, that the House must go into this conclave from a fear of interruption—interruption, not from themselves, but from the people in the gallery; that the people of the United States were not to be expected to be present here, and that those who attended in the gallery would be such as were not entitled to any consideration. This, according to his understanding, was the sum and substance of the reasons adduced in favor of the rule. But, for himself, he believed that the people of this country understood the rules of decorum as well now as they did when the

Constitution was formed, and that there was no more danger of disturbance now than then.

Whether gentlemen sat here as umpires and arbitrators, or as the representatives and organs of the people, was a question on which he certainly had an opinion, but which he did not consider it necessary at present to discuss. But, whether acting in one or the other capacity, he could not see why the gallery should be closed. The House had the power already to remove from it disturbers of the peace, and, if gentlemen meant so to conduct as to meet the approbation of their own consciences, they had no reason to fear those who would be in the gallery. And, if they were not afraid to have their conduct judged, why close the doors? All seemed to agree that no dangerous excitement existed at present. Was it, then, to be got up in two or three days, and to such a height as to threaten the safety or independence of the House? For himself, he could wish not only to have the people present, but that the votes of all the members were to be given *viva voce*. He regretted that there was any ballot at all on the question, and was utterly opposed to all closing of doors.

Mr. HAMILTON, of S. C. observed, that he felt desirous of detaining the committee a few moments in offering a remark or two on the subject before them. It seems to be a well settled conviction that it is a great public misfortune that the election of a Chief Magistrate should devolve on this House; and he would go further and say, that, in so devolving, it was perhaps a still greater misfortune that the choice should be made by secret balloting in the several and separate states, which, by its nature, precluded the public knowledge, which the people ought to have, of the votes of their representatives, on a question so vitally interesting to them, and under sanctions so solemn and imposing. For one, he was free to confess, as the people were precluded by the very form of election, from this species of knowledge, he was disposed to let them in as spectators to whatever might pass in relation to the exercise of this great trust; and in making this remark, he concurred cordially with the gentleman from Ohio, in wishing that, in spreading all our acts and doings before the public eye, during the approaching contest, we could likewise subject each delegate to the direct responsibility of a *viva voce* suffrage. This being impossible, he was disposed to consider the assembly of such citizens as thought proper to come into our galleries, as curing, in a slight degree, the defect of which he had spoken, in the mode of election. They would have a contemporary opportunity of witnessing the vote of each state, and, thus, information, which it was right and proper that the people should have, would be promptly disseminated, in a form, he thought, better to keep the public mind quiet, than those thousand rumors and suspicions which naturally belong to mystery and concealment.

The gentleman from Delaware, however, meets this subject at its threshold, by asking "what right any man has to go into the galleries to see what is doing in regard to the election of a President?" I answer, because that man happens to be one of the people, for whom we are acting, and for whom we are choosing a Chief Magistrate; and because he has precisely as much right to witness the election in question as any act of ordinary legislation; and according to the theory of this democracy, it is infinitely more expedient that he should witness the one ceremony than the other. Mr. H. said, that he thought the popular eye would have a salutary influence in repressing any indecorum and violence, to which, in moments of peculiar agitation, the House, constituted as it was, was perhaps even more liable than the spectators in our galleries. They are fortunately exempt from many of those strong bias of favor and antipathy which may lamentably exert an influence within this bar.

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The gentleman from Delaware does not affirm that there is any danger at this time, in admitting our fellow citizens into the galleries; but he contends that, at a future period, this House might be subject to intimidation from the violence of a mob, who would assemble to witness the scene, to which we are shortly to be summoned. Sir, when that day of profligate violence arrives, the atrocity of which cannot be put down by the force of public opinion—when a corps of such desperadoes are permitted, for an instant, to exercise such an influence, all spirit will have departed from this House, and all purity and moral worth from the People; and the forms we may cherish here, will be but a solemn mockery. When a few hundred persons, scarcely equal to our own numbers, convened in those seats, can successfully exercise acts of intimidation on the representatives of ten or twenty millions of people, to an absolute reversal of their sovereign will, it may be well imagined that the energy of the Government, and public virtue, are buried in a common grave. The argument, if it is worth any thing, could be urged, to show that it is expedient that we should even legislate in the conclave of a Turkish divan. The truth is, that many subjects of ordinary discussion, and common legislation, are better calculated to produce popular excitement, than the election of a President by this House. During the former, popular prejudices, and, I may say, the feelings of public vengeance, may be addressed, by the arts and electricity of popular eloquence. In the latter, our business is confined to one act, that is, in placing for ourselves, or having it placed for us, a small strip of paper on which the name of an individual shall be written. The ceremony precludes the possibility of debate, and almost the only motion, which can be put, is, one that will have relation to the period when the act of balloting is to be renewed, on the contingency of continued failures to elect. It is impossible to conceive, in the forms of the transaction itself, fewer circumstances, calculated to provoke popular violence and commotion. Besides, said Mr. HAMILTON, I think the very habits of our people forbid any apprehensions, either present or future; and, however little consoling it may be, to the pride of some, he thought there was as much honesty outside of the walls of our House, as there was within them. He supposed that the individuals who would at present, and in times to come, occupy the seats in our gallery, would, a majority of them, be citizens of this District, whom he believed were as exempt from the character of corrupt intriguers, and noisy brawlers, as the people of any section of our country, although the gentleman from Ohio, (Mr. WRIGHT,) seemed to think that our spectators, whenever we have a President to elect, must consist of the very worst and most abandoned species of our population. For myself, said Mr. H. satisfied that no precedent we shall now establish, will be binding, and that posterity will have the same right that we have, to take care of themselves, and being equally satisfied that the ordinary power possessed by the Speaker, to clear the galleries, in the event of occasional disorder, meets all the exigencies of the present crisis, I hope that every citizen of this land, let him come from where he will, may be allowed to witness an event, in which he has precisely as great an interest as we have ourselves: more particularly, when his presence can, in no degree, impair a sound and efficient exercise of the agency we have to exert.

Mr. H. said he would, before he took his seat, notice one or two remarks which fell from the gentleman from Delaware, (Mr. M'LANE.) This gentleman, in a very manly declaration of the course which he intended to pursue in the approaching election, has thought proper, as furnishing the best illustration of the principles which should govern him in that course, to affirm that he does not feel himself bound, by the wishes, either expressed or implied, of the people whom he represents on this

floor, and that he was in no greater degree responsible to them, than to the rest of the country, for the selection which he should make of the person for whom he should vote to fill the Presidency. It is not my business, said Mr. H. to quarrel with the principles or the opinions of the gentleman from Delaware, for whom I have personally great respect, but, nevertheless, I hope I may be pardoned for venturing to express my own. The first obligation which a human being owes, is to his own conscience. If this monitor tells him that a candidate for office is dishonest and unworthy, no human power ought to compel us to vote for him. But, whilst I lay down this primary principle thus broadly, I am as equally satisfied, that, in the present election, which belongs peculiarly to the people, which has come to us on a forlorn and disastrous contingency, that, if we have no moral objections to the person whom, among the candidates, is preferred by the particular people we represent here, we are bound to surrender our mere personal preferences and prejudices, and to endeavor to carry into effect their honest, reasonable wishes. This position harmonizes with the whole theory of our representative democracy; and, to suppose that an agent of the people is absolved from all deference, (and he might almost say obedience,) to their obvious wishes, by the mere circumstance of our being organized into states for this exclusive purpose, is at once to sap those great foundations of responsibility and control on which our entire system rests. In a word, he thought the true rule was in a very narrow circle, which was, that, after satisfying our own consciences, the next best thing was to gratify the reasonable and honest purposes of those who send us here.

Mr. H. said, that the gentleman from Delaware, in urging the House to adopt the rule for the exclusion of spectators from the gallery, during the election, had relied, with no ordinary emphasis, on the precedent which had been established by the Congress of 1801, in the celebrated, he could not say *nefarious*, contest between Mr. Jefferson and Mr. Burr. As this part of the gentleman's argument he puts on the ground of *authority*, and not *reason*, he would venture to hint that he, (Mr. H.) had some serious misgivings that people would not look to those times as furnishing the instructive examples of public freedom; for, he believed, it would be susceptible of proof, by referring to the journals, that most of those who voted then for the proposed exclusion from the galleries, were those who had most strenuously supported the Alien and Sedition Law. He did not make this allusion for the purpose of throwing a fire brand into the House, but he appealed to it as an historical fact.

In conclusion, Mr. H. said, that he really hoped that no groundless apprehensions would induce the House to retain a rule, which, by the mystery which would be incident to its enforcement, would beget a thousand times more excitement than if our galleries were thrown open to the whole world.

Mr. M'LANE again rose, not for the purpose of entering at large into the debate, but merely to correct some misapprehensions which appeared to exist, in relation to the remarks which he had first submitted. It was certainly far from his intention either to stir up old embers, or to brighten any existing flame. Far less was it his intention to advocate any rule which had for its object the concealment of his own course of conduct, in regard to the election of President. He neither had nor could have any concealment on that point. His opinions at all times, and in all circumstances, had been openly known, and he meant that they always should be. If he even desired concealment, he could not effect it—he stood here with no colleagues. The vote he was about to give must be publicly known, and, whenever it was given, it should be given with a single eye to the interests of our common country. Could there, indeed, be

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any concealment in the matter? Did not every member of this House know how his own colleagues intended to vote? And would he not disclose that knowledge? But to whom? To the persons in the gallery? Could they discover, while the act of balloting was going forward, for whom those ballots were given? Certainly not. He should not, for his part, denounce the arrangement made by the constitution on this subject. *Viva Voce* might be a very good mode of voting for President, but, whether good or bad, was not now the question. It was not the mode which the constitution had prescribed. He again repeated, that his object was not to effect any concealment, for himself or for others. The course which each member would pursue, would be well known to this House, and it would be known to the country in time to correct it, if erroneous.

But his object, Mr. M'L. said, was to prevent the exertion of an influence which, at some period hereafter, might operate to warp and swerve members from the conscientious discharge of their duty. It was wholly on the ground of precedent that Mr. M'L. was desirous to record his vote in favor of this rule. Surely, no gentleman who knew any thing of history, could need any arguments to convince him how tremendous such influence as that which he deprecated, might easily become. Nor was it hard to say how it might be got up. A county meeting is held; votes are passed, approving or disapproving the anticipated conduct of a representative in this House, and directing him what course to pursue. And if the affair stopped here, there would be no danger. But it might go further; constituents may be brought to the scene of action, with the intent of intimidating and overawing the members of this House. The time might come when this would happen, though it may not now; and, if the gentleman from South Carolina shall then live, and cast his eyes on such a scene, Mr. M'L. was persuaded that he would do justice to himself and to his motives on this occasion. That gentleman says that the people have a right to know what is done in this House. Sir, said Mr. M'L. I agree with him that they have. He says further, that he cannot go with me in the doctrine that our constituents have no right to control us in the vote we are about to give for President. But, for myself, I am free to say, that, however I respect the opinions of my constituents in all cases of ordinary legislation, in this case I do not know them; I act as a judge and an umpire. I know perfectly that great respect is due to public opinion, when fairly expressed. But even public opinion, if, in my conscientious belief, it has run wild or gone astray, shall not govern me.

The Constitution has imposed it on us as a duty, to choose a President, when the election by the people fails. Now, if my constituents have a right to instruct me, in this respect, the constituents of the gentleman from South Carolina have an equal right to instruct him, and so have the constituents of each member of this House. And, if gentlemen are bound to obey, and the country remains divided, the result will be, that this House cannot choose a President, any more than the people can. The last remedy provided by the Constitution fails, and all those evils rush upon the country at once, which are the obvious result of such failure. It is expressly to guard against this, that the Constitution provides, in the resort to this House, a tribunal which shall be perfectly independent, and above popular control.

When up before, Mr. M'L. said, he had referred to the precedent of 1801, as bearing upon the present case. In answer to the argument drawn from it, the gentleman from South Carolina had denied any weight to the precedent, because it was derived from the administration of the Government by the federal party. Mr. M'L. expressed his regret that any thing should have fallen from that gentleman, which might have a tendency to revive animosities which, for the happiness of the coun-

try, ought never to be disturbed. But, he said, if this subject was to be introduced, he was willing to meet the gentleman from South Carolina. The precedent he had referred to, was a precedent set in party times, and of the federal party. But, said Mr. M'L. it does not, because it is a precedent of the federal party, come to me with less title to respect. Is this the only precedent of that party? It is the precedent of a party, says the gentleman, capable of enacting the alien and sedition laws. True, it is; and it is the precedent of a party which organized this Government— which put it in motion, after building it up, and established the policy which, wisely cherished, had made this nation, at this day, prosperous at home, and respected abroad. It is the precedent of that administration, to the wisdom of which, time, which tries all things, was fixing its seal. It is a precedent of the same party that established the judiciary, built up the navy, created an army, and laid the foundations of the system of national defence, which has afforded to us security at home and protection abroad. After copying from that party all these measures of national glory and prosperity, why will not the honorable gentleman receive from it also this precedent, which has the same motives, and the same great objects in view? In all other cases, the federal party consulted the true interests of the country; and their measures were calculated to subserve them, or it has been folly to adopt them. In the case now brought into precedent, they had the same objects in view; and the gentleman will find, if he adopt their policy in this respect also, he will reap the fruits of this, as he has done of other precedents set by them.

Mr. FLOYD, of Virginia, said he had no disposition to say much on this subject; but, holding the opinion, which he did, of the most deliberate character, that, not only on this subject, but on all others, there should be no secrecy whatever in the proceedings of the Government, he was not disposed to vote on this question now, without saying a few words. He was not disposed to set a precedent now, to be governed by hereafter in a state of excitement. Is there any excitement now? The opinion of every member of the House, in regard to the Presidential Election, is made up decidedly and distinctly, and can be expressed in open sitting, as well, and no doubt as honestly, as if our doors were closed; and I was sorry to hear the gentleman from Delaware say, that the presence of persons in the galleries could have no effect on his vote: for I am sure there is not a man in the United States who would suppose such a declaration from him necessary.

In reply to the argument that but a few persons, who were industrious enough to get up soon, would be able to obtain admission into the gallery—Mr. F. asked, if so, why should any gentleman wish to close the gallery? Let them indulge their curiosity in this particular—he saw no objection to it. Nor could he agree with the gentleman from Ohio, that intriguers would be always up in the galleries—for that was not the place for them. The gentleman had also reference to a late occasion, not more than a year ago, growing out of this very election, in which there were some symptoms of dissatisfaction in the galleries. [Mr. F. here was going to remark on this illustration, supposing it had reference to the meeting at the Capitol on the night of the 14th February last, but Mr. WARENT intimated that that was not the incident to which he referred.] Mr. F. continued. Poor King Caucus having been so much abused and spoken of, sir, I thought the gentleman might have referred to that occasion, where I was myself present—for, sir, I was one of that respectable body, and I am yet proud of it. If, however, he meant not to refer to that case, I will refer to a case, the excitement of which, probably in this House, and in the galleries, and out of the House, never was, and never can be, exceeded. I allude to the Missouri question—during the arduous and protracted discussions

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of which, no disturbance proceeded from the galleries. I am not, therefore, for setting a precedent now, in anticipation of what has never yet happened. If, sir, the Representatives of the People, in their capacity of individuals, or acting by states, are capable of being operated upon by disorders in the galleries, it is high time for us to go home. But I apprehend no disturbance. In all the trying circumstances of the Missouri question, as respectful conduct, at least, was exhibited by the galleries, as by the the House itself. A year or two ago, we were three or four days balloting for a Speaker of this House. Was the election of President more important than the election of a Speaker of this House? For himself, since the amendment of the Constitution, he thought the office of Speaker second in the Government. If we can elect a Speaker without any trouble from the galleries, can we not also elect a President? I would not suffer the belief to go abroad among the People, from our over-precautions, that we cannot. It had been sometimes said, in reference to the movements of this Government, that the eye of Europe is upon us. Now, Mr. F. said, he would not, in the eye of this People, or of Europe, have this House look like the Conclave of Cardinals, the Council of Ten at Venice, or even the Star Chamber of England. He would have the election of a President as public as possible, and let all the People, and all the world, see all that is done. There would not, perhaps, be much to see; the ballot-box would be placed on the Clerk's table, he presumed, and the States would deposit their votes in it as called over—that was the mode of proceeding in the Caucus last winter, and a more respectable and honorable body of men, he must say, he had never known, and he had no objection to the whole world being spectators of the ceremony. It seemed that it was what happened on a late occasion at New York, that the gentleman from Ohio had referred to. Of that State, Mr. F. said—for she was a great State—he would avoid saying any thing; but, if what happened there had happened in Virginia, he should have said as little as possible of it: for the occurrence of the disturbance in the galleries of the Legislative body, argued as little in favor of the body which did not suppress and punish the authors of it, as of those who disgraced themselves by making it. As he could not see any reason for secrecy, in conducting the affairs of Government generally, he was not willing to sanction it in this instance. If the Government was, as the gentleman from Delaware had suggested, strong enough for the purpose of security at home, and protection abroad, it had nothing to apprehend from disorder in the galleries of this House, its power being sufficient to enforce due respect to it.

Mr. F. said he was rather sorry, for several reasons, that the gentleman from S. Carolina should have alluded to the old federal party. He had no doubt that, in every thing the federal party had done, not involving its construction of the Constitution, things were as well done as they are now. The error of that party was in not apportioning its legislation and expenditure to the true condition of the country. As to the elder John Adams and Timothy Pickering, he did not at all approve their constitutional opinions, and no one had been more decidedly opposed to them: but a state of things might occur, and he did not know but it had occurred, in which he believed he would take the old ones in preference to it. If the doctrines of the old federal party were obnoxious, he did not see that those of the present day were any better. They undertook to do every thing under the clause of the Constitution to provide for the general welfare; and so, said Mr. F. do we, at the present day.

One thing, Mr. F. thought his friend from Delaware had overlooked. He had said that the federal party built a Navy. So they did, said Mr. F.—and they sold it, too—at least, they provided for the sale of it. The next administration carried the provision into effect, for

they were a law-abiding people. I cannot say as much for the present; for I read in the paper of to-day, that there is a seventy-four gun ship, built under an act expressly providing for such vessels, which is pierced to carry a hundred and two guns—the same which the President and a number of other persons have been lately on a trip of some seventy miles, to look at and admire. On another point, also, the gentleman from Delaware was somewhat defective in his statement: the federal administration did raise an army—but they also disbanded it. If that administration was to be reproached for any thing beyond an erroneous construction of the Constitution, it was merely for the extent of their expenditure, &c. and in that extent, the latter days of this halcyon administration were as far in advance of the federal administration, as that administration was in advance of public opinion. Mr. F. concluded by saying, that, as he was against secrecy of every description in the affairs of Government, he should vote in favor of this amendment.

Mr. HAMILTON again rose, and said, that he felt it due to himself to make a very brief reply to the gentleman from Delaware, if it was merely for the purpose of assuring him that, in the allusion which he had made to the Alien and Sedition Law, that it was neither his intention or desire to arouse from their mouldering ashes those embers of party distractions which, he thanked God, had long since passed by. Much less was it his object to fling imputations on a party, (among whom had been embraced some of the most valued and cherished friends he had on earth,) which, on a variety of occasions, had rendered services of signal and inestimable value to the country. But he would put it to the candor of the gentleman himself, to say, when he urged a measure for our adoption, on the mere ground of authority, whether it was not admissible for him to show, that the authority, according to the popular understanding of the country, came rather in a questionable shape.

Mr. H. said, that he should not deny, (for it would be unjust for him to do so,) that the Federal party, (the very party which passed the Alien and Sedition Law,) had contributed to the formation of those great and valuable institutions to which the gentleman had referred. But he believed that they were, most of them, the work of joint counsels, and a confederate patriotism, when parties scarcely had a controlling influence on public measures; and whilst he admitted that several distinguished members of the Federal party had left a large debt on our gratitude, he could not be unmindful of what such men as Jefferson, Madison, and Gallatin, had done, in giving efficiency and popularity to the form of our Government, by fixing the principles of a wise, economical, and prudent administration. He thought it, however, not a little caustic and unkind in the gentleman from Delaware, to appropriate all that had been done for the country, as the trophies of his party; if, however, these were consolations furnished after the loss of power, he surely would not deprive his friend of their enjoyment. But, after all, he had risen merely and distinctly to disclaim any intention to wound the feelings of a single gentleman on that floor, by an allusion which he thought had laid fairly in his view.

Mr. MERCER, of Virginia, then observed, that he was very happy that the gentleman from South Carolina had made the explanation he had just given; and he expressed a hope that all party divisions and party feeling would be banished on the present occasion. He thought that the observations of the gentleman from Delaware, himself, had shown that no great injury was likely to result from the admission of spectators. If it was really true, that the sentiments of members were not concealed from each other, the mere closing of the gallery would not operate to conceal them from the public, or materially prevent any influence from out of doors.—Members were not under any injunction of secrecy, and whatever was done within, would almost immediately be



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known without. There was then no end to be accomplished by the rule, but solely the prevention of disorder; and the only question to be settled was, whether the rule was necessary for this purpose. Mr. M. believed it was not: he could conceive no reason to apprehend the smallest danger of it. He thought that, under the protection which they enjoyed on all other days, the House would be as free from disturbance on this, as on other occasions. As to the precedent which had been referred to, Mr. M. made some remarks, which, from his position in the House, the reporter but imperfectly heard.

Mr. WEBSTER said, he was afraid that an observation by the honorable member from Ohio, apparently made in allusion to his remarks, might lead to misapprehension. He had not intimated that the gallery might be filled by persons not entitled to consideration; no such thing. He only spoke of its size, and then only in consequence of the argument that the People of the United States might, from the galleries, superintend the votes of their Representatives. Superintend, he believed, was the word. His honorable friend from Virginia, (Mr. FLORENCE,) seemed, in like manner, to have misapprehended him in this particular.

Even if the galleries should be cleared during the proceedings, at the request of a state, there would still be no propriety in speaking of the proceeding as done in conclave, or as kept secret from the people. The journal would be published daily, as usual. There would be no injunction of secrecy. It was a mere question about the orderly and decorous proceeding—the police, as it were—of the House. As to the supposition that any gentleman wished to conceal his vote, or to act secretly, there was no one who supposed such a wish to exist any where. He was willing, every member was willing, that his vote should be known to every body. He had known questions which he thought as important as this. He might again. The occasion, however, might attract a multitude, and the object was to secure order, and freedom from restraint.

The gentleman from Virginia had objected to voting, on questions of adjournment, &c. by states. But it would be seen at once, that, as the election was to be made by states, every question fairly and really incident to the choice, ought to be decided also by states. The constitution said the House should immediately elect a President. On the former occasion, the rule was, that the House should proceed, without interruption from other business, and without adjournment to choose a President. But the latter part of the rule was found impracticable, in fact, and avoided afterwards, by voting on one day, that the next balloting should not take place till the next day. So that all the members were, in fact, quietly sleeping in their beds, while the House, according to the journal and the rule, was all the time sitting. The vote to postpone the balloting, from time to time, was, on that occasion, taken by states. The committee had thought proper, on this occasion, to recommend that the House might adjourn on the vote of a majority of states.

He again hoped that too much importance might not be attached to this question. He had no fear of any great inconvenience either way. He saw no question of principle in it. It was a question of expediency; and he remained of opinion, that the rule prescribed a fit course, upon the whole, to be followed. He certainly was not likely to request the gallery to be cleared; but if any gentleman, or gentlemen, representing another state, should make such a request, he thought it ought to be granted. And, therefore, he approved the rule, in its present state. He would state again, and would particularly request the House to consider it, that there might be inconvenience and embarrassment, if this question were left to be decided, and should arise, after the House had commenced the proceeding, when it must

act by states and without debate. To prevent such possible inconvenience and embarrassment was one object of the rule.

Mr. WRIGHT said, that, before the question was taken, he wished to correct the misapprehension of the gentleman from South Carolina, (Mr. HAMILTON,) as to the remarks he formerly made in relation to the kind of people that would crowd the galleries on occasions like the one contemplated. If I understood him right, (said Mr. W.) he supposed me to assert that none but the profligate and worthless people of this District would be found in the galleries, and that I considered none of them worthy a place there. Sir, I am not aware that I said any thing of the people of this District or City; and if I did, I never could have uttered sentiments so entirely foreign from my feelings as those imputed. I did say, however, that those who would crowd the galleries on such occasions, would be the unprincipled and profligate politicians of the country, ready for the exertion of any influence, however improper and desperate, to effect their object. In this sir, the people of this City or District were in no way implicated, and I protest against the gentleman's carrying these declarations into any account against them. Among my acquaintance in the City and District, I am proud to rank many for whom I entertain a respect not surpassed by any felt by the gentleman himself, for them, or any other persons whatever.

The gentleman from Virginia, (Mr. FLORENCE,) has said, in allusion to what fell from me, that the intriguers will not make the galleries the theatre of their operations. No, sir, not altogether. I concur with the gentleman in part; but when they have exerted their influence out of doors, and accomplished all within their power there, they will then take possession of the galleries, to observe its effect and operation here.

A word, sir, as to the motion. It is to take from the delegation of a state the power to clear the galleries. In ordinary cases, the Speaker, or any member of the House, can do it. When we assemble to ballot for President, we lose our individual character, and proceed as the representatives of states, acting only as states; and I can see no danger in giving to the representatives of one sovereignty the power to clear the galleries. It is but a mark of respect to him, and, in my opinion, it is peculiarly fit and proper that he should have the power to exercise, if the occasion called for it.

Mr. McDUFFIE, of S. C. observed, that as, in the course of the debate, principles had been advanced, against which he must protest, and against which he intended to vote, he was desirous of giving the subject some discussion, which the lateness of the hour would not, at present, admit him to do. He therefore moved that the committee rise.

The question on rising was put accordingly, and carried, yeas 89—noes 71. So the committee rose, and obtained leave to sit again.

IN SENATE—THURSDAY, FEBRUARY 3, 1825.

## SUPPRESSION OF PIRACY.

The Senate resumed the consideration of the bill to suppress Piracy in the West Indies—the amendment proposed by Mr. SMITH (granting aid to merchantmen to arm) being still pending.

On this amendment, and various propositions to modify it, in regard to the kind and quantity of armament required, the amount of premium, &c. a discussion took place, which continued about two hours. In this discussion, Messrs. SMITH, HOLMES, of Maine, EATON, MILLS, LLOYD, of Mass., D'WOLF, LLOYD, of Md., HAYNE, VAN BUREN, and FINDLAY, took part.

Finally the Senate refused to fill the blank for the premium with \$100, with \$75, and with \$50. On the latter sum, the question was decided by yeas and nays, as follows:

YEAS—Messrs. Barbour, D'Wolf, Edwards, Hayne,

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Johnston, of Lou., Kelly, Lloyd, of Mass., Lowrie, Mills, Palmer, Parrott, Ruggles, Seymour, Smith, and Van Buren—15.

NAYS—Messrs. Barton, Bell, Benton, Boulogny, Branch Brown, Chandler, Clayton, Dickerson, Eaton, Elliott, Findlay, Gaillard, Holmes, of Maine, Holmes, of Miss., Jackson, King, of Alab., King, of N. Y., Knight, Lloyd, of Md., Macon, Talbot, Taylor, Tazewell, Thomas, Van Dyke, and Williams—27.

The question was then taken on the amendment itself, proposed by Mr. SMITH, and negatived without a division.

Mr. MACON then, for the purpose of ascertaining, as he said, whether the Senate were disposed to act at all on this bill, on this subject of granting encouragement to the merchantmen to arm, &c. moved to strike out the fourth section of the bill, which is as follows:

"Sec. 4. *And be it further enacted*, That the commanders and crews of any armed merchant vessel of the United States be, and they are hereby, authorized to recapture any vessel and cargo taken by pirates upon the coast of the Island of Cuba, or the other Islands aforesaid, or on the adjoining seas; and such vessel, so recaptured, being brought into any judicial district of the United States, shall be adjudged to be restored by any Court of the United States, having admiralty jurisdiction therein, to the former owner or owners of the same, he or they paying for salvage not less than one-eighth, nor more than one-half of the true value of the said vessel and cargo, at the discretion of the Court, for the benefit of the recaptors, and in such proportions as the Court shall direct, which payments of salvage shall be made without any deduction whatsoever."

On this motion a debate arose, of considerable duration, in which Messrs. MACON, MILLS, TAZEVELL, BARBOUR, and SMITH, took part. The debate turned principally on the expediency of inserting in this bill provisions already substantially in force; on the propriety of making any discrimination in the amount of salvage to be allowed for recaptures from the pirates in the West Indies, and recaptures elsewhere; whether proper to fix the amount by the bill, or leave it to the discretion of the Court, &c. In the course of the debate, Mr. SMITH moved to strike out the words which made the section applicable alone to Cuba and the West Indies, so as to leave the provision general; but no question was taken before the adjournment.

Towards the close of the discussion of the questions just stated, the debate took a turn apart from the discussion of details, and assumed the following course:

Mr. MILLS concluded his remarks on the amendment, by observing, that he felt he ought to have made the avowal the other day, in relation to the source from which this bill was derived. It had been called by some a measure of the Executive; others thought that the Executive Department of Government had this burthen thrown on him which did not belong to him, and he was held responsible. Mr. M. said, so far as he was concerned, he was willing that the Executive should be disabused, if he had been abused by any responsibility of this sort. It was a bill from the Committee on Foreign Relations; and inasmuch as the Executive had sanctioned it by his message, every honorable gentleman might apply this message to those provisions of the bill to which it was applicable. When he said it was not a measure of the Executive, he wished to be distinctly understood. The Secretary of State was called on, not for the purpose of drawing a bill to embody his own views, but to reduce to proper form the propositions which the committee themselves had agreed on; and so far as this went, the Secretary was concerned in preparing this bill, and no farther. It was not to be supposed, that, in consequence of being thus officially called on, he made himself or the Executive responsible for the propriety of that course.

Mr. TAZEVELL having delivered his views on the fourth section, proceeded to say, that, before he sat down, he should offer a remark on the circumstances which had been stated by the gentleman from Massachusetts, (Mr. MILLS.) When this bill was first introduced into the Senate, it was said to come under the patronage of the Executive: at that time some difficulties were started as to the question of public law, which become involved in it. One honorable gentleman whom he had in his eye, (Mr. LLOYD, of Massachusetts,) then very strongly argued before the Senate that, if there were doubts on that question, they ought to receive that bill, because it came from the Executive. Those, it was said, who had consumed forty years in turning over the pages of Grotius, Puffendorf, and Vattel, by the midnight lamp, were far more capable of judging on this subject than the Senate could be. He noticed this circumstance now to express a hope, as an individual member, that, whenever any measure might be in discussion before the Senate, on any future occasion, that gentlemen would not introduce, by way of argument, in that House, an opinion of the Executive, as an authority and obligation. It was unparliamentary, and certainly wrong. The Senate, he said, was, under the Constitution, placed as a check on the Executive, with authority to revise the acts recommended by the President; and was this revising power, to be told, they should adopt any measure because it was recommended by the Executive? It was language not known in the Constitution of the United States. If a case should ever occur, that the Executive might have a greater attachment to any particular measure than it had to this, he trusted it would stand on its own merits, and not upon the recommendation of the Executive.

Mr. MILLS said he felt himself exonerated, in the remarks made by the gentleman from Virginia. He was yet, however, to learn that it was unparliamentary and improper for the Senate to make use of the advice of the Executive, after having condescended to ask it. If they did not intend it should have any effect, why did they ask it? The Senate, by a solemn vote, called on the President to know what had been done in relation to the suppression of piracy, and what he further recommended should be done? They themselves, had therefore, committed the first fault, in asking that advice; and it certainly was proper to refer to that information after having called for it.

Mr. LLOYD, of Mass. then rose, and said, he was called, rather unexpectedly, before the bar of the Senate, to answer the charge made against him; but he could only throw himself on his country, and plead *not guilty*. He did refer to the opinion of the Executive to enforce the bill. There was not a member of the committee but understood that it had been submitted to the Executive consideration, and he thought it was as parliamentary to refer to those distinguished living authorities—those celebrated men who had spent forty years of their lives in studying public law, as to refer to the *lex scripta*, the opinions of dead men, delivered ages ago. He thought so still, and were a similar case to occur, he should pursue a similar course. As far as any inference might be drawn of a blind devotion, on his part, to any man, or set of men under Heaven, he solemnly disclaimed it. He meant to refer to the high national authorities in support of his own opinion: he felt how feeble he was, unsupported by such authority, and he hoped the gentleman would pardon him for saying that, as long as he had the honor of a seat on that floor, he should, in similar circumstances, pursue a similar course.

Mr. TAZEVELL said he should be very sorry to suffer the gentleman from Massachusetts, (Mr. LLOYD,) to remain, for one instant, under the impression that he intended any thing personal or disrespectful to him, or any one else: nothing could be farther from his idea than that; but, as a member of this Senate, he thought

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it did not comport with the dignity of parliamentary proceedings to allude to the opinion of the Executive, or any other branch of this Government, as an argument in debate. He contended it was unparliamentary, and had a right so to contend. The gentleman from Mass. might adopt the same course again, and he (Mr. T.) should feel himself bound again to make use of the same remark as often as the opinion of the Executive was, in the same manner, referred to there.\*

Mr. BARBOUR begged leave to make a remark or two. He said that when this subject was first presented to the Senate, it was placed on its true ground. The Committee on Foreign Affairs wished to have suspended their report till they received an answer from the Executive to a resolution of the Senate, calling on the Executive to state what means had been employed, and what additional means were necessary, for the suppression of piracy; but, from the urgency of the case, and express instructions from the Senate to make a speedy report, the committee had, on its own responsibility, and its own views of the subject, reported a bill, and it had been a subject of satisfaction and congratulation to the committee, to find that their own views, and those of the Executive, were so nearly allied. As regards this particular case, said Mr. B., the Senate called on the Executive to ascertain what were the means best calculated to effect the intended object. The Executive is permanent, has the management of international affairs, and is fully advised of the measures that are necessary to effect any particular purpose. The Senate, acting as a body, called on him for information—and is it to be considered as acting contrary to the meaning of the constitution, for any member to refer to that answer which was given, to justify the course recommended? It

had nothing to do with the bill—it was a mere individual concern. The gentleman from Mass. (Mr. MILLS, a member of the committee,) was asked to prepare the bill, merely in execution of the plans which the committee had proposed. The Executive was not responsible—they having only the manual part to perform. But, when he stated that a blockade would be a material measure, then every gentleman favorable to that measure was justified in referring to that answer as the opinion of the Executive.

Mr. HOLMES, of Maine, said, he agreed to the mode of proceeding. He said their committees had in some instances called the Heads of the Departments before them. They had asked them questions, had received their answers, and had furthermore reported their answers to the Senate. Whether that was the correct course or not, he thought was important for the Senate to know; whether they were to report an opinion of a member of the cabinet, or Executive, to the Senate, unless it were made officially, was a question he should like to see settled. His opinion was, that if the Head of a Department was called before a committee for his opinion, that opinion should be communicated to the Senate in writing. To refer to the opinion of the Executive, or any member of the cabinet, unless it were an official opinion, would not, perhaps, be correct.

#### HOUSE OF REPRESENTATIVES.—SAME DAY.

Mr. CALL, of Florida, submitted the following resolution:

*Resolved*, That the Committee on the Judiciary be instructed to inquire whether either of the judges of the District Courts of Florida have received fees for

\*NOTE. The day on which this debate appeared in the National Intelligencer, the following letter was addressed by Mr. LLOYD, of Massachusetts, to the Editors, which was also published, and which it is thought proper, in justice to Mr. L. to append to the debate here.

*Messrs. Gales & Seaton*: Be pleased to insert the following in the next National Intelligencer, and oblige yours, respectfully,  
J. LLOYD.

February 4, 1825.

GENTLEMEN: In giving a condensed account, in your paper of this morning, of a discussion that took place in the Senate yesterday, Mr. LLOYD, of Massachusetts, is represented as having said, "that those who had spent forty years in turning over the pages of Grotius, Vattel, and Puffendorf, by the midnight lamp, were far more capable of judging on the subject, (the suppression of piracy, then under consideration,) than the Senate could be."

This is erroneous. Mr. LLOYD neither entertains that opinion, nor did he make so indecorous a comparison; and if a reference be made to his remarks, he trusts they will not be found to contain any expression warranting an imputation which he would unwillingly have attached to him, however much he might have been misunderstood.

In the letter of the Secretary of the Navy, of December 1st, communicated to Congress with his message by the President, the Secretary expressed his opinion, that, unless the co-operation of the local governments in the West Indies could be obtained, "additional means for the suppression of piracy ought to be entrusted to the Executive, to be used in such manner as experience may dictate."

In accordance with this information, when the subject came up for consideration, a resolution passed the Senate, requesting the President to communicate to it information "as to the additional means necessary and expedient to be entrusted to the Executive."

In reply to this, the President stated, that three expedients occurred—

One by pursuit on shore,  
Another by reprisals; and

A third by the blockade of the ports of the Island.

These documents were all printed and promulgated, by being laid on the tables of the Senators, and published in the newspapers, and in the opinion of Mr. LLOYD, furnished legitimate materials for the pending discussion, when the Committee of Foreign Relations brought forward a bill, authorizing, under certain, and very guarded circumstances, the imposition of a blockade of some of the ports on the Island of Cuba.

In advocating this principle of the bill, coinciding with information thus formally elicited and promulgated, Mr. LLOYD, thought it both correct and pertinent, to endeavor to fortify his own opinions, by a reference to the high authority from whence the advice had been received; and in availing of this support, he felt no reluctance, in characterising the source from whence it came, in the terms which he thought merited, nor in expressing his stronger reliance on the judgment of living authorities, thus distinguished by their experience and acquirements, rather than on the *lex scripta* (not *scripta*) of past ages, given under circumstances having perhaps little analogy to the subject under debate, the suppression of piracy, or to the state of the world at the present period.

This brief exposition, Mr. LLOYD considers as due to those whom he has the honor to represent, among the freest of the free, as well as to himself; for, while he will always delight to render honor to whom honor is due, he has in the course of a public life, now not a short one, never bowed the knee to any man in power, nor been an advocate of the slavish doctrines of human infallibility, nor of passive obedience, or non-resistance; nor has he ever sought, or received, official favor or patronage for himself, or others; but, while making this declaration, he would be ungrateful were he not to acknowledge, that he has never failed to meet, as occasions for their manifestation presented, from every member of the General Government with whom he has been brought into contact since 1808—although sometimes at variance with them in political opinions—all the kind and gentlemanly attentions which he wished to receive, or was entitled to expect.

H. of R.]

Fees to Florida Judges.

[FEB. 3, 1825.]

their services, not authorized by law; and, if any, what other mal-practices have been committed by the said Judges, or either of them, and that the said committee be authorized to compel the attendance of persons, and the production of papers, to promote this investigation.

The resolution was read, and then, on question of Mr. CALL, the following letter was read.

Hon. RICHARD CALL:

SIR: I have had the honor of receiving a note from you, addressed to me, as United States' Attorney for East Florida, and asking information whether the Judge of the Superior Court of that district has ever charged fees for services performed in his judicial capacity. At the May term of the Superior Court of East Florida, in 1824, Judge Smith established a number of rules for the government of the practice of his Court, by which provision is made for the transacting and doing of much business in vacation, which previously had been done in term, viz: such as making orders for commissions to take foreign testimony; and hearing and deciding on motions for amending pleadings, &c. and other matters and questions generally aiding in the usual progress of a suit. For all which services, when performed, Judge Smith has charged fees. I have paid them, and I believe every attorney of his (Judge Smith) Court has done the same.

It is proper to mention, that in the United States and territorial cases, Judge Smith has never charged fees.

I remain sir, your very obedient servant,

EDGAR MACON.

Feb. 2d, 1825.

Mr. CALL then rose, and said, it had become his painful duty to arraign before this House one of the judicial officers of this government—a duty on which he entered with reluctance and regret. But it was one from which he could not shrink, when he considered that he should be wanting in fidelity to the interests of those whom he represented, if he were to permit the charges alleged against this individual to pass without investigation. It is stated, said he, by a gentleman whose reputation for honor, integrity, and intelligence, cannot be questioned—a gentleman who occupies the respectable and responsible station of District Attorney of the United States for the district of East Florida, that the Hon. JOSEPH L. SMITH, a Judge of the District Court of the United States, receiving from this government a salary of 1500 dollars per year, has so far forgotten the respect which he owes to himself, and the elevated station which he occupies, as to demand and receive fees for the performance of those duties which properly belong to his judicial character.

Sir, in the various departments of this government, there is no power so absolute, and none which should be administered with more wisdom and purity, than your Judiciary. It is the sanctuary to which all must fly when life, fortune, and reputation, is endangered; and the interest of the whole community demands that its purity and integrity should be preserved even beyond suspicion. Sir, in those sections of your country where society is well organized, and where its moral influence is calculated to suppress vice, and promote virtue, even there, no institution is more necessary than an intelligent and virtuous judiciary. But this necessity becomes more imperative in a country whose society is scarcely yet formed—where strangers have congregated from all parts of the world, speaking every variety of language, and possessing every variety of passion, prejudice, and opinion, common to their several countries and education.

Sir, Florida is yet peopled by persons who are strangers to your laws, your language, and your government, or by adventurers, who have been driven, on the wave

of emigration, in pursuit of fortune, or a better home. They look to you for protection, and they look to your officers for examples of justice and morality. Sir, the paltry pence which the learned judge has wrung from the hands of honest industry, or from the unfortunate victim of oppression, who has sought protection in your courts of justice, is not the only evil we deprecate; it is the pernicious effect of his example in showing a disregard to law, reason, and decorum, which we most deplore. For my own part, sir, I have ever considered, that he who presides in the temple of justice should be as pure and unsponsored as he who officiates at the altar of the Most High; and that ignorance or corruption in your judiciary, is an evil not less to be lamented than apostasy in your religion.

From what cause, sir, has this extraordinary conduct of the judge originated? Surely he will not plead ignorance of law, reason, and the rules of decorum? If he does, sir, he is unworthy of the administration of justice. Is he corrupt—does he pervert reason, and misconstrue law, to gratify his avarice? If so, let him be hurled with indignation from the bench he has dishonored, and dismantled of the robes whose purity he has polluted. I am aware, sir, that he will endeavor to shelter himself under the statute book of the territory; but let me tell you, sir, he will find no protection there. There is no section or provision in the laws of the territory, which allows him the privilege of demanding fees. He knows that it was never the intention of the Council to allow him this privilege. I, sir, was an humble member of the Legislative Council which enacted those laws; it sat in St. Augustine, the residence of Judge Smith. Twice, during a short session, did the friends of this gentleman propose to allow him fees of office for the performance of his judicial duties, and twice was that proposition rejected, with disdain, by the Legislative Council. Hence, sir, I have not even the charity to believe that he has sinned through ignorance, or that he has committed an honest error of judgment. If I mistake not, he heard the discussion which took place in the Legislative Council, on the proposition to allow him fees, and he knows it to have been rejected. Sir, I blush to have been the organ of communication to this House, of so unusual, and so disreputable an occurrence. But, sir, it is your officer of whom we complain; you sent him to us, and we ask you to take him away. I hope, sir, the resolution under consideration will be adopted, and that the most prompt and energetic measures may be taken by the House to promote this investigation.

Mr. FOOT, of Connecticut, said he presumed there could be no objection to the adoption of this resolution, proposing an inquiry merely. His only regret in regard to it was, that the gentleman had thought it necessary, in this stage of the business, to have gone into a statement of the facts of the case. He could have wished that the gentleman had reserved his facts until the report of the committee should have been made.

The question was then taken on the resolution, which was agreed to without opposition.

#### APPEAL BY THE SPEAKER TO THE HOUSE.

The SPEAKER, (Mr. CLAY,) rose from his place, and requested the indulgence of the House for a few moments, whilst he asked its attention to a subject, in which he felt himself deeply concerned. A note had appeared this morning in the National Intelligencer, under the name, and with the authority, as he presumed, of a member of this House from Pennsylvania, (Mr. KREMER,) which adopted, as his own, a previous letter, published in another print, containing serious and injurious imputations against him, and which the author avowed his readiness to substantiate by proof. These charges implicated his conduct, in regard to the pending Presidential election; and the respectability of the station which the member holds, who thus openly prefers

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them, and that of the people whom he represents, entitled them to grave attention. It might be, indeed, worthy of consideration, whether the character and dignity of the House itself did not require a full investigation of them, and an impartial decision on their truth. For, if they were true, if he were capable, and base enough, to betray the solemn trust which the Constitution had confided to him; if, yielding to personal views and considerations, he could compromise the highest interests of his country, the House would be scandalized by his continuing to occupy the chair with which he had been so long honored in presiding at its deliberations, and he merited instantaneous expulsion. Without, however, presuming to indicate what the House might conceive it ought to do, on account of its own purity and honor, he hoped that he should be allowed respectfully to solicit, in behalf of himself, an inquiry into the truth of the charges to which he referred. Standing in the relations to the House, which both the member from Pennsylvania and himself did, it appeared to him that here was the proper place to institute the inquiry, in order that, if guilty, here the proper punishment might be applied, and, if innocent, that here his character and conduct may be vindicated. He anxiously hoped, therefore, that the House would be pleased to direct an investigation to be made into the truth of the charges. Emanating from the source which they did, this was the *only* notice which he could take of them. If the House should think proper to raise a Committee, he trusted that some other than the ordinary mode pursued by the practice and rules of the House would be adopted to appoint the Committee.

The SPEAKER having concluded his observations, and called Mr. TAYLOR to the chair, in his place—

Mr. FORSYTH, of Georgia, rose, and said, he hoped that the address of the Speaker would be entered on the Journal, and that the document, to which he had referred, should be laid on the table; and that the address and the document would be referred to a committee of nine members, to be chosen by ballot.

Mr. KREMER, of Pennsylvania, rose, and said, if, upon an investigation being instituted, it should appear that he had not sufficient reason to justify the statements he had made, he trusted he should receive the marked reprobation which had been suggested by the Speaker.—Let it fall where it might, Mr. K. said, he was willing to meet the inquiry, and abide the result. Mr. K. moved that the “card” of the honorable Speaker, referred to in “another card,” should also be referred to the committee, and entered on the Journal of the House.

Mr. FORSYTH said he had not intended to make any distinct motion about entering the “card” on the Journal of the House; but had supposed it proper that the Speaker’s communication should be entered on the Journal, and, with the paper which gave rise to it, be referred to a committee.

Mr. MERCER, of Virginia, felt some difficulty as to the proper mode of proceeding in this case, and the insertion of the Speaker’s address on the Journal of the House, on account of the address having been orally delivered. He had never heard of a proceeding exactly of this sort. It appeared to him, that the preferable way of bringing the subject before the House, would be for the Speaker to address a letter to the *Speaker pro tempore*, setting forth the cause of complaint which he had verbally stated to the House, and it would then be proper to refer that letter to any committee that might be appointed. He suggested this course as most becoming the House; and it was one which could occasion no delay, as a few minutes would be sufficient for the Speaker to commit his address to paper.

On the suggestion of the Acting Speaker, Mr. KREMER withdrew his motion to refer the “card,” the proposition not being before the House to refer “another card.”

Mr. FORSYTH suggested to the gentleman from Virginia, and to the House, that there was no necessity for taking an order, such as had been spoken of, for reducing the address of the Speaker to writing. He took it for granted that the address of the Speaker, to-day, like his address when he enters the chair, or leaves it, though orally delivered, might be entered on the Journal: this was a matter to be arranged by the Speaker and Clerk; all that was necessary was for the House to direct the address to be entered on the Journal.

Mr. LIVERMORE, of New Hampshire, observed, that he did not see how it was possible to enter the communication of the Speaker on the Journal, since it was merely verbal; and he moved to lay the motion of the gentleman from Georgia, (Mr. FORSYTH), on the table, until the House should be in possession of that communication in a written form.

The question on Mr. LIVERMORE’s motion was put, and negatived.

Mr. FOOT, of Connecticut, said, there was a manifest propriety in the course proposed by the gentleman from Georgia. The Journal is, at all times, under the revision of the Speaker of the House. The entry of this address, under the direction of the House, will of course be made under the direction of the Speaker, and it was not to be supposed that it would not be properly stated. There was, besides, a manifest impropriety in the temporary Speaker receiving a letter from the actual Speaker—it would be, in fact, Mr. Speaker, laying before the House a letter from Mr. Speaker.

Mr. M’DUFFIE, of South Carolina, expressed his regret that a motion to lay this subject on the table had not prevailed. It was very obvious that this was a question of great magnitude, involving a preliminary inquiry whether it is proper for the House to act on the subject at all. It comes upon us suddenly, said he—it is new, and unexpected. Under this sudden impression, by which the House is excited, we are called upon to act. Mr. M’D. submitted to the House whether it would not become its dignity to pause, until to-morrow, before it determined to take upon itself the investigation and settlement of a personal controversy, commenced elsewhere, on principles of honor. He was not certain that the House might not be properly called upon to act on this subject: but he was opposed to deciding that question now, and he was opposed to spreading the matter on the Journal, because doing so would commit the House to go on with the investigation. For his part, he could not say that he was prepared to go into the consideration of a subject, which, if opened here, might take up the remainder of the session.

Mr. LINCOLN, of Maine, said, that, according to his understanding, there were no charges presented to the House, on this occasion, against any one. If there had been, he believed they would not have been considered entitled to credit, by him, or any one else, very few excepted, in this House or in this nation. He viewed the whole matter as an *out-door* business. An anonymous letter had appeared in a public print, and certain cards had passed between individuals in relation to it; but in these the House had no certain—neither of these communications was before it. If indeed any thing had passed *within* the House, disrespectful either to the person or character of the Speaker, such was his regard for the station, such his respect for the feelings, and such his admiration of the character of that officer, that he should certainly be one of the first to afford him the investigation which he now requested, and which would then be his undoubted right, to assert his rights or redress his wrongs. But, as that was not the case, he thought any further prosecution of the business would merely be throwing a firebrand into the nation, that would kindle a flame in almost every breast within it. He hoped the House would not proceed hastily on this subject. The nation was already much excited. It looked towards



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this House with a jealous eye. It needed no further cause of excitement than the present juncture naturally presented. And was it wise, in such a state of things, to make an anonymous newspaper communication an affair of legislation and of question here? The subject had come upon the House suddenly—he believed, unexpectedly. It addressed itself strongly to the feelings of gentlemen. For one, he would acknowledge, it had powerfully affected his own. He was not prepared now to discuss it; but gentlemen could not but perceive at a glance, that it embraced questions too important by far to be acted upon hastily. His own view was, that the House ought not to act upon it at all, especially not at this moment, on a sudden suggestion, when he was persuaded many members of the House did not even know what were the contents of the publications referred to, and of the communication which related to them. He hoped the House would take time to reflect upon the course which, under all the circumstances, the interest of the nation required.

Mr. FORSYTH said, he had by no means a desire unnecessarily to press the consideration of this subject.—But, said he, what are we conversing about? A communication from the Speaker. Where is it? It is verbally given to us. There must be some notice taken of it.—How? The Journal must either state the words of the communication, or the Clerk must undertake to state the substance of it. Now, if this communication had been of the character of other addresses from the Speaker of this House, it would go on the Journal as a matter of course. It had been announced by the chair, however, that such was not the case, and a motion had become necessary to procure its insertion in the Journal. When it is placed where it ought to be, he had not the slightest objection that a decision upon the motion for the appointment of a committee on the subject should be deferred until to-morrow. We must, sooner or later, said Mr. F. determine whether it is proper that an investigation of this matter shall take place or not. I am myself now ready to decide that question, but should not be sorry if the decision should be delayed. The only question now before the House, was, whether the matter should be entered on the Journal.

Mr. McLANE, of Delaware, observed, that, if the present question rested only on what had passed out of the House, he should acquiesce in the opinion expressed by the gentleman from South Carolina: but he thought that the course which this affair had taken *within* the House had gone to vary, very materially, its general character: and the House, perhaps, would find itself bound, under these circumstances, to prosecute the inquiry. How stands the case? asked Mr. McL. The Speaker complains that certain charges have been made against his conduct, originally in an anonymous publication, of which a member of the House has since virtually acknowledged himself to be the author. An honorable member rises in his place, and avows the charges as having been made by him, and backs that avowal, by inviting an inquiry into their truth. The charges themselves are weighty, and important; and, if proved, undoubtedly draw after them all the consequences which have been stated. The charges are made by a member in his place. That member asks an investigation—the Speaker of this House, against whom the charges are preferred, asks the same. For his own part, the request being made by the Speaker and reiterated on the other side, he was perfectly willing to award the investigation asked for.

Mr. MERCER again rose. In what he had suggested when first up, he said he had no intention to object to the institution of a committee to inquire into this subject: his only difficulty was, as to the mode of proceeding, &c. With reference to the suggestion, that this was a personal affair between the two gentlemen concerned, so far from considering that fact an objection to inquiry, it would with him be an argument in favor of it. If ap-

prised of any such controversy between members of this House, he should, for his own part, have held himself solemnly bound, as a member of this House—as a citizen of this country—as a Christian—to interpose the authority of this House, to prevent any such consequences as might result from it. He held it to be the duty of every member of this House to take such measures as would prevent such consequences. This course had been pursued in England, and had been attempted here, &c. Mr. M. made some further observations, the import of which was, that he did not think form in this matter very material, though he thought it would have been better if the communication of the Speaker had been made in writing.

Mr. ISACKS, of Tennessee, said, that he rose as well to express his regret at the course this subject had taken, as to express briefly his views of the question before the House. Mr. I. said, that the honorable Speaker had thought proper, by an address to the House, to ask an inquiry into a transaction in which he felt himself deeply implicated. The member from Pennsylvania, alluded to in this address, had risen in his place, and expressed an entire willingness and desire that this inquiry should be made. So far, then, as the two members were concerned, it was certainly proper that the House should adopt the course proposed. It is, said he, to be sure, another question, whether this House will consider itself the proper Forum in which these two gentlemen should settle their differences. But, so far as this House should think itself concerned, I, for one, will, on this, as I would on every other occasion, say, that, when any member shall rise in his place, and ask an inquiry into his conduct, I shall give it to him; and I shall vote for this inquiry. An objection has been made to the manner in which the inquiry has been asked. The Speaker chose to make it by way of address, and not in writing. The other member directly concerned in the matter, accepted it in that way. The matter is, then, as substantially before us, as if it had been in writing, when it shall be put on the Journal. If we have the substance, we need not so much regard the form, as to give the subject a different direction.

Mr. COOK, of Illinois, said he took it for granted, that the Speaker had presented to the House, as specifically as he could, the nature of the charges which he had asked the House to investigate. It was not the address of the Speaker, but the letter which contained the charges against him, that was to be the subject of investigation. The inquiry which was asked by the Speaker was proper, in relation to the character of this House, and the interests of the country. The letter referred to in the Speaker's address, did not operate, in its accusatory property, on the Speaker alone, but on a portion of the other members of this House. Let gentlemen turn to that letter, and they would find that it contained charges as pernicious to the character of this House, and of the nation generally, as to the Speaker.

Mr. WEBSTER here interposed, he said, with great reluctance, to call his friend from Illinois to order. He submitted to him whether, on a motion to refer the letter, &c. it was proper to enter into an investigation of the nature of the charges contained in it, &c.

Mr. COOK disclaimed any design to violate order in his observations, and desisted.

The question was loudly called for, and was taken on ordering the address of the Speaker to be entered on the journal, and decided in the affirmative.

Mr. CONDUCT, of New-Jersey, then moved to postpone the further consideration of the remaining proposition (for the appointment of a committee, &c.) until to-morrow.

Which motion was agreed to, and the subject postponed until to-morrow.

#### ELECTION OF PRESIDENT.

On motion of Mr. WRIGHT, the House went into court

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Election of President.

[H. of R.]

mittee of the whole on the state of the Union, and again took up the report of the committee appointed to prepare rules to be observed, by the House, in the election of a President of the United States. The question recurring, from yesterday, on the motion of Mr. INGHAM, to strike out the last clause of the third rule, which directs that the galleries shall be cleared on the demand of the delegation of any one State—

Mr. M'DUFFIE rose, and addressed the House as follows:

Mr. Speaker: If I could agree with the honorable member from Massachusetts, (Mr. WEBSTER,) that this is a proposition of inconsiderable importance, I certainly should not ask the committee to bestow any portion of its attention upon any remarks of mine. It is true, that the proposition immediately under consideration, is, apparently, of but little moment; but when we advert to the principles involved in it, and the consequences which may flow from it, I consider it a subject of very great importance. We have been correctly told by the gentleman from Delaware, (Mr. M'LANE,) that this question derives its importance, principally from the consideration, that our decision will constitute a precedent for future times; and we are distinctly called upon to adopt the proposition *now*, not in reference to existing circumstances—not with a view to obviate any anticipated disturbances in the gallery during the approaching election—but for the disinterested purpose of providing a precedent, for the security of those who are to come after us. A little consideration, I think, will satisfy the committee, that the strongest objection to this measure grows out of the fact, that it will be regarded as a precedent. If, indeed, it be a matter of small importance; if we have no cause to apprehend immediate danger; if no fears are entertained that our proceedings will be disturbed or overawed by any injudicious exhibition of excitement or violence, on the part of those who may behold them from the galleries, why should we adopt the proposition? Whence this extraordinary providence for the security of our successors? Why should we thus gratuitously provide for dangers that may never occur? Will not those who shall occupy our places in future time, be capable of providing for the tranquillity and safety of their own deliberations? If in any future emergency there should be indications that our successors will not be permitted to exercise the most unbiassed freedom of deliberation, in performing the important function of electing a President, will the precedent we are called upon to establish be necessary to enable them to guard against the danger? Will they not have the same power then, that we have now? But let us look at the other side of the question. What will be the effect of the adoption of this rule? It is one of those propositions which can only be correctly appreciated, by taking into consideration principles which may seem to be remotely and almost imperceptibly connected with it. What, then, are those principles? Sir, we can be at no loss for an answer to this question. The honorable member from Delaware, with that candor and independence which always characterize his department here, comes out boldly and manfully, with a distinct avowal of the principles upon which he rests the defence of the proposition to clear the galleries.—We are told by that gentleman, that the people have no right to inspect our conduct here, in regard to this great subject, the election of a President of the United States; that we owe them no responsibility for our conduct in the discharge of that duty, and that they have no right to—

[Mr. M'LANE here rose, by leave, to explain. If, said he, I understand the gentleman as referring to any remark made by me, he has certainly misapprehended my argument. I disclaim any intention of withholding from the people of the United States a knowledge of our proceedings here. The people have a right to know, and they shall know them. The argument for which I con-

tended was this: That the immediate constituents of a member of Congress have no right to instruct him in relation to his vote in the election of a President: that he is wholly independent of his constituents in giving that vote, further than the responsibility which a high-minded and conscientious man feels in discharging a solemn duty devolved upon him, and his ultimate responsibility. I freely admitted, that the will of a majority of the people of the United States, was entitled to great respect, not to be easily put by, but not of imperative authority, on this question.]

Mr. M'DUFFIE resumed. I gave way, with great pleasure, to allow the gentleman from Delaware an opportunity of explaining; but I do not perceive that his explanation has materially varied the doctrines I have ascribed to him. It is certain, however, that I have not misrepresented the argument used by that gentleman yesterday, for I have before me his very words, taken down as he uttered them, to which I now call the attention of the committee. "We are called upon," said he, "to act here, in voting for a President, not as the representatives of the people." "We are not responsible to the people," and he asked, "Who has a right to come here, and superintend or inspect our proceedings?" These are the precise words used by the gentleman from Delaware; and, construe them as he may, they convey doctrines against which I feel bound to enter my protest. This rule, supported by these arguments, involves the idea that, in the election of a Chief Magistrate of the nation, we act here wholly independent of the people, and are under no obligation to regard their will, however solemnly expressed and certainly ascertained. What would be the impression carried down to future times, by the adoption of this rule, under the existing circumstances? If the question had been taken without argument, and the rule adopted, various opinions would be hereafter entertained as to its principle and its objects. It might be regarded as a mere matter of police. But, after what has occurred, if it were now to be adopted without some protest against the principles upon which it has been vindicated, what would be the consequence? It would become a precedent for times less pure, perhaps, than the present, and would be expounded by the argument of the gentleman from Delaware. We should thus contribute to consecrate principles, which I am sure this body would never intentionally sanction. Are we not bound, therefore, by the highest considerations, not only to reject the rule, but to set the seal of our solemn reprobation upon the arguments by which we have been urged to adopt it?

But, let us for a moment inquire into the pernicious uses to which this rule may be applied, as a precedent; the only view in which its advocates regard it as of any importance. Whatever confidence I may have in the purity of the present House of Representatives, I cannot close my eyes upon the probability that its members will not always be elevated above the reach of corruption. Suppose, then, that some future House of Representatives should resolve to elect a President from corrupt motives, such as would certainly expose them to the execrations of an indignant people: How would they proceed? Their first step would be to close the galleries, and exclude the public eye from an immediate view of their proceedings. But would they stop here? No, sir; they would have it in their power to cover their conduct with a veil of impenetrable and eternal mystery, by laying upon the House an injunction of secrecy. Nor would the temptation to adopt such a measure, be greater than the facility of its adoption. By the rules reported, the House acts by states on all questions incidental to the election. There are six or seven states represented here, upon an average, by little more than a member each, and thirty or forty members, representing a majority of states, could, by co-operation, decide any question. And thus would you place it in the pow-

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er of a small and corrupt minority, to screen their conduct for ever from the view of those to whom they are responsible. If, as we have been told, we are to establish a precedent for times less pure than the present, let us not put an instrument into the hands of the unprincipled and ambitious, by which they can most effectually consummate their corrupt and nefarious purposes.

Let me now solicit the serious attention of the committee, to the extraordinary doctrine avowed by the gentleman from Delaware. Are we, indeed, independent of the people of the United States, in the exercise of the high trust of electing a President? Do we cease to be their representatives, when we resolve ourselves into an electoral college, to perform that function? Are we to make a selection without reference to their will, however solemnly and constitutionally expressed? Are we to assume the character of independent judges, acting for ourselves, and not for the people? I will attempt to establish the negative of these questions. There are many of our public men, who stand high in the estimation of the country, and who have made a distinguished figure in the service of the republic, who maintain that, even in our legislative capacity, we are bound to yield implicit obedience to the known will of our constituents, however ascertained. A signal instance of the practical recognition of this principle, was exhibited some six or eight years ago, in relation to the celebrated compensation law. That measure, by which the members of Congress provided for the increase of their own pay, produced a degree of popular excitement and dissatisfaction, which no question, of the same apparent magnitude, had ever produced before. And what was the consequence? The same Congress, at the very next session, almost before the members were warm in their seats, took steps to repeal the obnoxious law; and a majority of those who voted for its repeal, avowedly did so, against their own deliberate convictions, because it was the known wish of their constituents. But, sir, there is a plain and striking distinction between the relation we bear to our constituents in discharging the ordinary functions of legislation, and that which we bear to them, in performing the extraordinary electoral function of choosing a President.

My own opinion always has been, (and I should be unworthy the seat I occupy, if, entertaining that opinion, I were now to conceal or suppress it,) that, in matters of general legislation, the representative is not absolutely bound by the will of his constituents, because he is bound by the still higher and paramount obligation of the constitution itself. By that instrument, "all legislative power is vested in Congress." Now, what is legislative power? What does the term "legislation" necessarily involve? Inquiry, investigation, argument, deliberation, are its essential elements. The delegation, therefore, of the power to legislate, is, from the very nature of the function, the delegation of a discretionary power. If we are sent here to inquire, to investigate, to argue, and to deliberate; the laws we pass should, of course, be the result of these mental operations. But what is the nature of the trust which we are about to perform with closed doors, under the idea that we are under no responsibility at all to the people, for the manner in which we may discharge it? Is it a power which, like that of legislation, the constitution supposes the people to be incapable of performing? Precisely the reverse, sir. The Constitution of the United States, both in theory and practice, distinctly involves the idea, that the people of the United States are *not* capable of making laws, but that they *are* capable of making a President. That constitution provides that the President shall be elected, if possible, by the people. The primary effort to make a choice, is made by the people. This, then, is obviously the favorite mode of the constitution, for the election of the President. As, therefore, the constitution assumes that the people are capable of making

this election, and prescribes the mode in which their will shall be expressed; their preference, whatever it may be, and to the extent at least that it is indicated by the electoral vote, reaches us through the regular channel ordained by the constitution,—and is not, as must generally be the case with instructions on matters of legislation, the mere ebullition of popular meetings, roused into action by some temporary excitement. So that the will of the people, on this subject, comes to us, consecrated and enforced by the constitution itself. What, then, is the argument of the advocates of the proposed rule? That we are bound by instructions on matters of legislation, which the constitution supposes the people to be incapable of performing; and yet, in the performance of an act, which the constitution supposes, and justly supposes, the people to be more capable, because more worthy of performing, than ourselves, and which devolves upon us by an unavoidable contingency only, we are under no obligation to regard their opinion, nor subject to any responsibility for the manner in which we treat it!

Never was there a more paradoxical argument advanced, in a grave deliberation. What does it amount to? Neither more nor less, than that the people know how to make laws better than we do; and that we are more worthy of the trust of making a President, than the people. This is palpably inverting the principles of the constitution. Upon what principle is it, that the people of the United States have retained in their own hands the power of electing a President, and have not retained a single vestige of the power of legislation, on the general concerns of the republic? A single glance at the subject, will satisfy any one who comprehends the terms of the proposition, that acts of legislation cannot, in the nature of things, be performed by a multitude of people, dispersed over a vast territory, like that of the United States. If every citizen were a statesman, still would they be incapable of legislation; because they could not have those preliminary consultations, and that mutual interchange of ideas, which must necessarily precede every intelligent act of general legislation. They have, therefore, delegated that power entirely and exclusively to Congress. But have they the same obstacles to surmount, in electing a President? Are any preliminary consultations and interchanges of ideas, necessary to enable them to perform that act? On the contrary, every citizen gives his suffrage with more coolness, deliberation, and wisdom, in the ballot box of his own vicinity, than he would if all the people of the United States were collected together. The people, therefore, have retained the power of electing the President, under the idea that they are a safer depository of that power, than any which human wisdom could possibly devise. This, sir, is the principle of the constitution; and it is the principle of eternal truth. All experience has sanctified and confirmed it. The history of every people capable of freedom, demonstrates, that, in selecting officers, even of the highest grade, they are fully competent to form a correct judgment of the peculiar qualifications demanded by any emergency, or required for any office. Look into the history of those republics that have gone before us. Where do you find, illustrating either the civil or military departments of any nation, statesmen or generals of more elevated characters and splendid endowments, than those that were elected, even by the wild democracy of Athens, or the conflicting compound of aristocracy and democracy, that swayed the destinies of Rome? All the distinguished patriots and statesmen, who reflected so much glory upon those ages, and left such noble examples to re-animate the slumbering genius of succeeding generations, were elevated to office by the choice of the people. Sir, if there be any function which, in the organic operations of civil society, the people are peculiarly qualified to perform, it is, by a sort of instinctive perception, which seems almost to rise

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above reason, the selection of men best calculated to represent them in important political stations. If public men are distinguished by the ascendancy of their talents, the elevation of their characters, or by disinterested devotion to their country, my life upon it, these exalted qualities will neither escape the attention of the people, nor fail to make the appropriate, corresponding impression. They have no selfish purposes, no ambitious aspirations, no secret and sinister designs, to prevent or pervert the free and impartial exercise of their judgments. It is, in the nature of things, impossible that they should have. All their feelings are essentially patriotic. They rejoice only in the glory and prosperity of the republic, and are proud of the opportunity of elevating to power, those who are best qualified to promote these great ends. Sir, the glory and prosperity of the country is their glory and prosperity; and what other possible object can they have, in electing a President? After all, the quality most essential in the election of that great officer, wielding, as he does, the vast patronage of a great and growing country, *is an honest purpose*. This you will always find with the people; but man is not man, if you always find it any where else.

But, sir, there is another ground which distinguishes the election of a President by this House, from an act of legislation; and shows that the obligation which the popular will imposes upon the representative, should be much stronger in the former case than in the latter. In the ordinary case of legislation, we are, in most instances, called upon to act upon emergencies, of sudden and unexpected occurrence. The current of events is in a perpetual fluctuation; circumstances are continually presenting themselves in new combinations, which no one could anticipate, and which must, nevertheless, constitute the basis of legislation. For example, before we came here, none of us knew that we should be called upon to give a vote respecting the Cumberland Road, the Delaware and Chesapeake Canal, or the Suppression of Piracy. Topics like these, are continually springing up, which we must decide, before they have even been the subject of deliberation among the people. But what is the nature of that question, which we shall be called upon to decide on Wednesday next? And what are the circumstances under which we shall decide it? It is a question which has been distinctly presented to the people, for consideration, *by the constitution*; and has been, for the last four years, fully and freely discussed before the people, with an immediate view to the exercise of the highest power, and most sacred privilege, they possess—the actual choice of the man who is to preside over their destinies. It is a question, therefore, which, from the very mode of its recurrence, must always be presented to us, after it has undergone the deliberate examination, and, to a certain extent, the decision of the people.

But there is another view of the constitution on this subject, which leads us still more clearly to the conclusion, that, in the selection of a President from the candidates presented to us by the people, we are bound to regard their will as the rule of our conduct. I will illustrate it by putting a case, to which I request the particular attention of the gentleman from Delaware, that he may obviate the inference which I shall deduce from it, if he can. Suppose that one of the candidates should receive one hundred and thirty electoral votes; the majority requisite to a choice being one hundred and thirty-one—Is that candidate chosen President? You say, assuredly he is not. Why is he not chosen? Because he has not conclusive evidence that a majority of the people of the United States prefer him to any other candidate. Even the largest plurality, short of a majority, does not complete the election. For what purpose, then, is it sent here? That we may elect a man who unites only a small minority of the people of the United States in his favor? This would be absurd. The reason why the elec-

tion devolves upon us, demonstrates the *object* for which it is sent here. It devolves upon us, simply because the constitution will not place the sceptre of power in the hands of any man who *is not* preferred to any other, by a majority of the people; and, therefore, I infer, as a necessary consequence, that the three highest candidates are sent to us, in order that we may select the one, who *is* preferred by a majority of the people. The doctrine of the gentleman from Delaware, therefore, is in direct violation of the very principle of the constitution which imposes upon us the duty of electing a President.

There is yet another reason which operates with great force on my mind, in favor of considering the members of this House the mere organs of the popular will, on this question. It is this. If, in the discharge of our legislative duty, we pass a law which is unwise, and in its operation injurious to the country—the remedy is easy and obvious. The people raise their voices against it; they discard the offending representatives, and the obnoxious law is repealed. But if it should happen on this, or any future occasion, that this House should elect a President from selfish and corrupt motives, where is the remedy? There can be none. The deed is done. It is irreclaimable. Even the perpetrators may repent, in sackcloth and ashes, but there is no power that can do away the iniquity. It is evident, therefore, that if we do not recognize the right of the people to control our votes by instructions, we act wholly without responsibility. It is in vain that they have the right to dismiss the unfaithful representatives from their service. Though the example might operate as a terror to future transgressors, yet the work of corruption would still remain, and the administration, though detested and execrated by an indignant people, would maintain its odious and distracted rule, during the whole constitutional period. The very circumstance that the act is in its nature irrevocable, makes the denial of the right of instruction, equivalent to an absolute denial of all responsibility whatever, on the part of the representative.

There is another view of the subject, involving considerations of great delicacy, to which I feel bound, by a sense of duty, to call the attention of the committee. What, sir, is the peculiar nature of the power we are about to exercise, as it respects our own honor and reputation? When I am called upon to give my opinion upon any measure of general policy, or to co-operate in the passage of a law, in which my constituents and myself are equally interested; if I discharge that duty according to my own best ability and judgment, though my conduct should expose me to disapprobation and censure, yet I can elevate my head, not only with a consciousness of my own purity, but with the still prouder consciousness that no man *suspects* me of dishonor. But what must be the feelings of every high-minded and honorable man, when called upon to perform that duty which will soon, (and, I trust in God, for the last time,) devolve upon this House? Though his heart might be as pure as the principles of our holy religion, and his conduct as disinterested as patriotism itself, yet, should he act in opposition to the will of his constituents, to what ungenerous imputations must he not unavoidably subject himself? Acting, as he does, in the midst of temptations, which even the most virtuous find it more easy to avoid than to resist, how many will be ready to point at him the finger of scorn, exclaiming, as he passes, "There goes the man who abandoned his constituents, and sold his country!" In vain does his conscience acquit him; in vain does he seek for consolation in the consciousness of his own integrity. To a mind of nice sensibility, there is something both mortifying and degrading in the idea of being the object, even of unmerited suspicion. When called upon to act, under such embarrassing circumstances, should we not, therefore, anxiously adopt, for the regulation of our conduct, a

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sound and steady principle, upon which our honor may securely repose, free from the breath of suspicion? If we take the will of our constituents as our guide, we shall come to the discharge of the important trust in question, with our powers of attorney in our pockets, and our principles inscribed on our foreheads. No speculations will be then indulged, as to the motives of our preference; and we shall act under the cheering and consolatory conviction, that even malignity cannot insinuate that any secret hope, or latent expectation of reward, has induced us to disregard the will, and sacrifice the interests, of our constituents. Sir, I do solemnly declare, in the presence of my God, that if the election of a President were a duty of frequent recurrence, and I were called upon to discharge it upon principles, or under circumstances, that would expose me to such imputations, I would resign my seat, and abandon public life for ever, rather than put it in the power of malice to assail my reputation, by charges so plausible.

I will call the attention of the gentleman from Delaware, to a view of this question, which I request him to consider, as (what I know him to be) a judicious, a practical statesman. We have thus far looked at the theory and philosophy of the constitution; let us now advert, for a moment, to the practical operation of the Government.

The gentleman has told us, that we should select the man whom our own judgment—"our independent judgment," shall indicate, as *best qualified* to fill the Presidential office, without respect to the opinions or wishes of the people. Sir, the first qualification of the Chief Magistrate of a Republic, is the *confidence of the people*; and no man, who has not that confidence, can be either entitled or qualified to exercise the powers that belong to that exalted station. Suppose we were perfectly certain that the man whom our independent judgment would select, as best qualified, would be opposed by the deliberate will of four-fifths of the people. Would we have a right to elect him? Oh, yes, says the gentleman, "The constitution gives us the right." I know we have the physical, and if you will, the constitutional power; but that is not the question. Have we the moral right? Is it consistent with our duty, as representatives of the people? Gentlemen may talk as much as they please about our prerogative, as "independent judges," and utter specious and imposing dissertations upon the rights of conscience; but, if we elect a President in direct contradiction to the known will of the people, what will be the inevitable consequence? You clothe him with the emblems of power, without the substance; you impose upon him the highest of all responsibilities, without the power of fulfilling the obligations growing out of that responsibility. In a word, sir, you put the sceptre into his hand, and, in the very act of placing it there, you paralyze the arm that is to wield it.

Let us look a little more minutely into the nature and operation of public opinion, as connected with this subject.

If the people of the United States had never been called upon to examine this question, and express their will in relation to it; if it were a principle of the constitution that the Chief Magistrate of the Republic should be elevated by lot; and if chance were to cast the office upon a man who was not their choice, and who had not their confidence; I believe they would patiently acquiesce, although their will should be defeated. But, when the constitution has made it their right and their duty to examine the question, and express their will upon it; and when they see that will defeated by human agency, the agency too of their own representatives; is it in the nature of things that they should not feel deeply indignant at the authors of so glaring an outrage upon their most sacred rights? Is it to be expected that they would calmly and quietly submit, when their constitutional will has been contemned by their representatives?

Are they, indeed, the mere stocks and stones, which such insensibility would imply? Sir, I sincerely hope, as I confidently believe, that they are not. It would be a fearful omen if they were. It would go far to prove, what the arguments of the gentleman from Delaware seem to imply, that they are incapable of exercising this high attribute of self-government. But the supposition is a libel upon the people. If you were to elect a President, upon the principles and under the circumstances I have supposed; you would elevate him only to be a more conspicuous object of public reprobation; a miserable effigy of power; a common target, at which a high-minded people would level their just indignation. Sir, a lofty and generous ambition would disdain to accept power under such circumstances.

I presume I shall not expose myself to the imputation of flattering the people of the United States, (and God knows I have never been a flatterer, either of the people or their rulers,) when I ascribe to them as much virtue and intelligence, as has ever fallen to the lot of any people on earth. Nor shall I be considered as advancing an extraordinary proposition, when I affirm, that our Government is constructed, and ought to be administered, with as much regard to the will of the people, as that of Great Britain—or, to put a clearer case, that of France in the days of the Emperor Napoleon. Yet, in neither of these Governments were the principles of the gentleman from Delaware ever carried into effect. They never were carried into practical operation by any civilized Government, holding jurisdiction over an intelligent population, nor, until the nature of man is changed, will they ever be. As respects Great Britain, where time and experience have adjusted the operation of the political system, certain principles, recognizing the controlling influence of popular opinion, have been so long settled by the practice of the Executive Government, that they are now considered fundamental. No administration ever thinks of retaining power, with a majority of the people against them. How often have we seen the King, in obedience to the voice of the nation, discard from his service ministers in whom he still reposed the most undiminished confidence, and select others, not in conformity with the dictates of his own "independent judgment," but in compliance with the will of the people. Their confidence, and not his, is the point upon which the existence of an administration depends. Sir, there never has been a minister in England, not excepting the late Lord Castlereagh, who would have nerve enough to take the seals of office upon the principles maintained by the gentleman from Delaware. If, then, in a country where the authority of the Executive Government, in addition to its mighty patronage, is invested with the sanctity which naturally results from its hereditary character, it is practically demonstrated by the experience of a century, that no administration can maintain itself against the will of the nation—how desperate would be the experiment of electing a President against the popular will, in this country, where the people are more generally intelligent, the Government more popular in its organization, and the Executive Department destitute of the adventitious influence which belongs to an hereditary monarchy! Even Bonaparte himself, when supported by two hundred thousand bayonets, and wielding the whole military power of France, was compelled at all times to acknowledge the supremacy of the national will. Such was his own declaration, after he had fallen from power, when viewing the retrospect of his eventful life, with the eye rather of a philosopher than a monarch. If this mighty sovereign was compelled to admit the omnipotence of public opinion, what a wretched spectacle of debility and distraction should we have, if it should be disregarded in the election of a Republican President! Sir, a President elected upon such principles, would be an object rather to be despised than dreaded; for he would soon find,



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that he had very little power, either for good or for evil. I will now say a few words in answer to an imposing, but, in my opinion, deceptive argument, urged by the gentleman from Delaware. He asks—If we are bound to obey the will of our constituents, how can we ever make an election, since that obligation would constrain the friends of each candidate to adhere to him throughout the contest? Now, there may be many difficulties connected with a doctrine or a duty, which neither destroys the truth of the one, nor absolves from the obligation of the other. If the mere existence of such difficulties would absolve us from any duty, there would be an end to the obligation of almost every duty. I see a very easy and obvious mode of surmounting the difficulty suggested by the gentleman; but, before I state it, I will take the liberty of asking him how he can get over the very same difficulty, upon his own principles? The principle of preference, whatever it is, that induces a member here to vote for a particular candidate, imposes upon him a moral obligation to vote for that candidate. I say we should vote in conformity with the will of our constituents. The gentleman says we should vote in conformity with the dictates of conscience. There is my principle, and here is his. They are of equal obligation. Is it not evident, therefore, that both would equally produce the difficulty under consideration? If we adhere, without departure, to the candidate selected upon either principle, there can be no election. But, sir, the difficulty is imaginary. The plain and practical rule, is, to endeavor, if possible, to carry into effect the will of our constituents. We must make this effort honestly, without any skulking behind pretexts, or forms. If it be found that their favorite cannot prevail; that the candidate who received their electoral vote unites but a small minority of the people of the United States in his favor, and that the two others are more prominent; we must then choose between them, still conforming to the will of our constituents, in making that choice, if their will be known to us. If we cannot succeed in electing their first choice, we should endeavor to elect the person next in their confidence. By this process, the final control will be found, where it ought to be, in the general voice of the people of the United States.

I find myself called upon, to do what? Not to elect a President, but to complete an election which the people have left in an inchoate state, merely because they cannot meet together to complete it themselves. The framers of the constitution supposed that the popular branch of Congress would be the best means of concentrating the national will, and thereby consummating the work commenced by the people. The principles in which it originated, are not changed by the accidental circumstances which have cast upon us the duty of adding the finishing stroke to it. All agree that it is a misfortune that a majority of the people have not united in favor of one man; and that it was the very end of the constitution, the "consummation most devoutly to be wished," that such majority should have been obtained in the first instance. Why, then, is it not equally desirable now? What is it that has suddenly produced this magical change in the principles which regulate this great national operation, of choosing a President? Sir, these principles are eternal, and circumstances do not affect them. If, as it must be admitted, it was the primary object of the constitution to elevate to the Executive chair, the man who should be the choice of a majority of the people, that does not cease to be the object of the constitution when the election devolves upon this House. The election of a President must be regarded as a continued operation, carried on upon the same principles throughout. It would be a miserable and incongruous piece of patch-work, to commence with one set of principles, and end with another.

But, says the gentleman from Delaware, the power we exercise in electing a President is not conferred

upon us by the people, but by the constitution. Were I to take this proposition simply in the terms in which he has expressed it, I should regard it as either absurd or unintelligible. But I know the gentleman's meaning, and will not affect to misunderstand him. His proposition is, that the election does not devolve upon this House by any act of the people, expressiva of their wish that it should come here, but by a mere contingency, for which, as it must unavoidably occur sometimes, the constitution has made provision. But how does this strengthen the gentleman's argument? Are we to be told that, because it is the "necessity and not the will" of the people, that "consents" to our having any thing to do with this question; we are, therefore, absolved from all responsibility? The very reverse should be the inference.

Sir, I will now suppose a case, suggested by this argument of the gentleman from Delaware, which, from its peculiar application to myself, is better calculated than any thing I could select, to illustrate the sincerity of my attachment to the principles I have avowed. The constitution, providing for another contingency, declares, that if this House fails to elect a President, the duties and powers of that office shall devolve upon the Vice-President. Now, if individual preference, without regard to the public will, were to decide this question, I need scarcely declare, in this place, that there is no man in this country whom I would prefer to the individual designated by the people for the office of Vice-President.

But, sir, if, under the influence of this feeling, I were to give my vote in this House, for the indirect purpose of defeating the election, and throwing upon the Vice-President elect powers which the people never intended to confer; though my vote and my motive should be concealed from every human eye, I should never be able to make peace with my own conscience. I should regard myself as guilty of the most infamous dereliction of duty; and every honorable feeling of my nature would rise up to reproach me. In passing this sentence of deep reprobation upon my own supposed conduct, I trust I shall not be understood as speaking harshly of the possible conduct of others. The sentence I should pass upon myself, would result from my own peculiar notions of duty. Other gentlemen, entertaining different views of this subject, might pursue the course I should condemn in myself, without incurring the reproach of their own consciences, or deserving the reproach of others.

I now invite the attention of the committee, for a few moments, to a topic which has been drawn into this debate, whether fortunately or unfortunately, it is not for me to determine. We are told that we have a precedent, on this subject, set by the Congress of 1801; and we are called upon to yield to that precedent the deference due to the acts of our predecessors. For my own part, sir, I wish it to be distinctly understood, that I do not consider that precedent entitled to the slightest possible respect, upon this question. With me it has not the weight of a feather. And why do I reject it? Not because it is a federal precedent, for mere words have no weight with me; but because it was established by men who had deliberately resolved to violate their duty to their constituents and to the constitution, by attempting an act of usurpation, which, for boldness and desperation, would not have discredited a Cromwell or a Bonaparte. They knew, perfectly well, that what they had in contemplation would excite the indignation of the people, and this rule was consequently provided to veil their proceedings from the public eye. But, sir, I absolve the Federal party from the sin of that transaction. God forbid that the weight of that sin should rest upon any party now in existence. It was the deed, to be sure, of Federalists; but the Federal party—I mean the people of the United States, known by that denomination—never gave it their sanction. What,

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then, was it, that doomed to political infamy and proscription, Aaron Burr and his associates? Looking at the strict constitutional power of this House, that pretender was as fairly entitled to be chosen by it, as Mr. Jefferson. He had an equal number of electoral votes, making no discrimination. Whence, then, the popular odium incurred by those who voted for Burr? Simply, sir, from the attempt to carry into practical effect the principle that this House has a right to elect a President without regard to the popular will. This was the sin, sir. "The very head and front of their offending, had this extent no more." A combination of politicians, some fifty or sixty in number, who had been accustomed to wield the political power of the country, seeing the sceptre about to pass from their hands, screwed up their courage to the sticking point, and boldly set at defiance the will of the nation, by attempting to elect a man President, who was known not to be the choice of the people. Under the influence—the maddening influence, of party feelings, they attempted, as a party, what none of them would have attempted, and perhaps few of them approved, as individuals. They were actuated by a principle, similar to that which stimulates and sustains a mob in the commission of depredations, which every individual composing it, when left to himself, would shudder to contemplate. They confirmed the wavering, and quieted the apprehensions of the timid, by crying out, "The party will sustain us; the party will sustain us." Sir, this was a fatal delusion. It was the last act of their political life; it put a final end to the ascendancy of the Federal party. I agree with the gentleman from Delaware, that the policy pursued by the Federal party, with the exception of two or three measures, which nobody now attempts to justify, was a wise policy. They organized the Executive Government, and a system of national defence. They erected many monuments of their wisdom. But, in this closing scene of their power, what did they do? An act which alienated the confidence of the country, struck down the fabric of their power, and, by the re-action produced, swept away all the memorials of their glory, of which the gentleman from Delaware has spoken. Measures were confounded with men, and both involved in one common prostration. And hence the feeble and debilitating policy pursued by the Republican party, during the first years of its ascendancy. Without pretending to question, therefore, the general wisdom of the Congress of 1801, I must protest against yielding to their precedent on the subject before us.

There are some other topics which I intended to touch, but which I will waive, as I have too long trespassed upon the attention of the committee already. There is a single remark, however, which I must be permitted to make, before I sit down. We are called upon to close the galleries; and upon what grounds? Have we any evidence that they will be disturbed? Have we any reason to believe that they will be more disorderly then, than they are now? Our tongues will be silent on the approaching occasion, and it would be a reflection upon the people of the United States to suppose they could be spectators of such a scene, and not be hushed into silent attention by the moral grandeur of so simple and sublime a spectacle. Sir, who are they that will fill the galleries? They will be an epitome of the people of the United States, respectable and intelligent gentlemen from a distance, who, for aught I know, may be as capable of deciding this great question, with a view to the tranquillity of the Union, (I say it without intending to derogate from the dignity of the House,) as our honorable selves.

Mr. MANGUM, of North Carolina, then rose, and said, that he felt great repugnance to obtrude his remarks upon the notice of the House at any time—a repugnance which, upon this occasion, was certainly not diminished by the state of indisposition in which he found himself.

That he felt it his duty to make a few remarks in reply to those he had just heard—not so much with the view of affording either interest or instruction to the House, as with the view of publicly avowing those principles, which he deemed sound, and by which he had determined that his conduct on the approaching occasion should be regulated.

The question, said Mr. M. immediately under consideration, is intrinsically of but slight and trivial import, but it derives much consequence from other and more important questions that have been drawn into discussion. What, asked Mr. M. is the nature of the question before the House? It is one exclusively of police. But, from the manner in which it had been treated, he should have inferred, but for the gentleman's disclaimer, that his object was not so much to discuss *this* question, as to issue a sort of manifesto to the people of the United States, to justify those who yield to a strong current, and to damn those who resist it. It is a question not of open galleries or closed galleries. Gentlemen had, therefore, been engaged in combating shadows; and much of what had been said, had been addressed to a notion which no one had made.

The question, as he understood it, was simply this:—Whether the galleries should be thrown open, subject to be closed at the motion of the Speaker, or, whether they should be thrown open, subject to be closed at the request of the delegation from any one state. For his own part, he should have thought that the latter arrangement would have been conceded as a matter of courtesy, to those gentlemen who stand singly and unsustained by colleagues, as representatives from the weaker states. For himself, he had not the remotest idea that those galleries, let them be occupied by whom they might, were about to overawe the House, or exert any improper influence upon it whatever. His reliance was placed upon the deep moral feeling that pervades this nation. On this he relied to sustain gentlemen in the discharge of their duty; and on this he relied more than on all the bayonets and cannon that military despotism ever wielded.

This is a mere question of order. The admission of strangers was an act of courtesy, granted, as such acts are always understood to be, upon an implied obligation of good behaviour. It was not to be presumed beforehand, that those who were admitted, would violate the laws of decorum: but, if they did, there could be no doubt that the Speaker was competent to exclude them: and as little doubt that he would do it at the suggestion of the delegation from any one state, that a free exercise of their rights required their exclusion.

He would again repeat, that he felt no fears from any attempt to overawe the House; and still less had he fears of the intriguers who had been spoken of, whether posted in the galleries, or operating in this hall. His position was peculiar; it was that of an armed neutrality, he had but little to hope, and nothing to fear.

He knew that he stood upon a narrow isthmus, lashed upon either side by the most angry surges, from which neither numbers nor denunciations should be able to drive him. Calling to his aid the little lights of his understanding, and with a heart bent upon the best interests of his country, he should firmly and fearlessly endeavor to perform his duty.

He should not, however, have troubled the House at this time with a single remark, but for the principles he had heard advanced; and against which he felt it his duty to enter his solemn protest. He had always listened to the gentleman from South Carolina with great pleasure, and he must confess that he had heard him on this occasion with the more pleasure, because he thought he had perceived that his talent, his ingenuity, and his fertility of resource, had proved insufficient to sustain him under the weight of the cause he advocated. Whom, asked Mr. M. are we bound to obey, in giving our votes on the approaching occasion? We, I mean, who are in

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the minority? If I understand the gentleman, we are bound to obey the will of those whose candidate shall have the highest number of votes. I would be glad to know whether we are bound to do this by a moral obligation, or only by reason of the *philosophy* of the Constitution, to which the gentleman alluded. If by a moral obligation, that obligation addresses itself to every honest mind with the force of a perfect obligation; it must be obeyed, and why then has the Constitution been so silly as to allow us a choice between three candidates, when we are *morally*, and of course *perfectly* bound to elect the candidate who has the largest number of votes in the electoral colleges?

[Here Mr. M. yielded the floor to Mr. McDUFFIE, who wished to explain. He had not said that gentlemen were bound to elect the candidate who had the highest number of votes; on the contrary, he had said distinctly, that a plurality of votes did not make an election.]

Mr. M. resumed. He was then to understand the gentleman, that we are not constitutionally, but only morally bound; or, in other words, that we have no right to disregard the will of the people, as expressed in a plurality of votes by the electoral colleges. But, if so, was not the argument the same?—the conclusion the same? Was not that obligation as binding, as an obligation emanating immediately from the Constitution?—Must not every honest man regard it in that light? And must not every man who was not base enough to barter away his birth right for a mess of pottage—to sell himself for loaves and fishes—feel its binding power? If the obligation was a moral one, it was a perfect one, and, as such, commanded perfect obedience. He must, therefore, most emphatically repeat, that it was extreme folly, if not worse, in the framers of the Constitution, to give to this House the power of selection between three candidates, when, at the same time, the hands of members are tied up from the exercise of that power by the strongest obligations. The Constitution, then, holds out to us bread, and gives us a stone.

But this never was the design of the framers of the Constitution. And the very fact that they have given us the power to choose, is enough to prove that the principle, as stated, does not furnish the rule by which we are to be governed.

If, then, we are not bound by the gentleman's *moral obligation*, to elect that candidate who happens to have a plurality of votes in the electoral colleges, what is the rule by which we are to be governed? Is it by the vote of our respective states? That cannot be the rule: for the Constitution has not prescribed any uniform mode for the election of electors, but has left that power in the Legislatures of the States. And it may happen in those States in which they elect electors by districts, that there may be a tie; that the votes for two contending candidates may be equal. How will gentlemen extricate themselves from this dilemma—the dilemma of a tie? Will they resort to their *principle*? It will fail them—it is not principle—it is, in my humble judgment, absurdity. The gentleman from South Carolina has asked the gentleman from Delaware, with a sort of triumph, to answer the case which he put, to wit: that if 130 votes should be given for one candidate, falling one vote short of the number required for an election, whether that gentleman would *dare* to resist such a majority? I would answer, that great respect is due to the opinions of the people. That it would be great impolicy, in ordinary cases, to resist so full an expression of the public will. But reasons might exist, which would render it the imperious duty of the representative, as an honest man, to resist it. There is no *principle* concerned, as I trust, I have shown. It is mere matter of *expediency*.—But let me suppose a case, predicated upon the alleged principle, that we are bound to give our votes in accordance with the votes of our respective states, and ask the gentleman to answer it. There are twenty-four states

and three candidates for the Presidency. Suppose eight states should vote for each candidate; if we are bound to vote as our respective states do, no election can be made. And what will be the result? It is obvious.—By adhering to the *principle*, of which the gentleman speaks, you postpone three candidates, upon whom the people of the United States had fixed their eyes, as fit persons for the Chief Magistracy, and each of whom had received the votes of one-third of the people of the United States for that office. You set aside all these, and let the Vice President into that office; a man who had not received a single vote in the United States for the Presidency. What will the people's men say to this doctrine? and yet it is *principle*, sacred principle, according to the views of some gentlemen. But, says the gentleman, we are first to try to elect the people's man, and if we cannot effect that object, then, and then only, take up some other candidate. We must yield to the necessity of the case. Mark me, it is moral principle, says the gentleman, by which we are bound. A principle is surely a very bad one, which will not wear longer than one day, and which must be abandoned as soon as it is put into practice. But we must yield to the necessity of the case! I had thought that that which yields to any necessity whatever was not moral principle, for moral obligation admits of no compromise. It is said that, if on trial we cannot succeed in electing a President, to prevent the Vice President's coming into that office, we must give way. But here are eight states in favor of each candidate—who is to give way first? If I give way first, may not my constituents reproach me with an abandonment of principle? If the gentleman gives way first, does he not abandon principle? Sir, such a principle as must be abandoned on one day's trial, is not a principle which I will ever recognize.

If, then, sir, we are under no moral obligation to vote for the candidate who has the highest number of votes, nor to obey the votes of our respective states; what, I again ask, is to be the rule which must govern us? Sir, it appears to me that the whole fallacy, which pervades the arguments of the gentlemen whose views I am opposing, consists in this—they are comparing the votes of the people, taken *per capita*, with the votes of twenty-four distinct and independent sovereigns. They are comparing things which have no points of resemblance, nor have they any assignable relation to each other.—The states, as sovereigns, are all equal. The people, who make up those sovereignties, numerically considered, are totally unequal, and, in that respect, bear towards each other various and diversified proportions. Are we then to be bound by the votes of our respective districts? (This is the doctrine of the *people's men*, and all are *people's men* now-a-days, from the much reprobated caucus man, down to the humblest political professors.) Here, I trust, I may be permitted to say, that I shall, for once in my life, at least, in the honest discharge of my duties, fall in with the doctrines of the *people's men*—I expect to represent the plurality of my district.

But are we bound by the votes of our districts? I mean, in point of principle? Did the framers of the Constitution design that we should be so bound? If they did, wherefore does not the Constitution prescribe an uniform mode of electing representatives by districts? And yet the power of prescribing the mode, is left with the legislatures of the respective states. Some states elect their representatives by general ticket, as does Georgia, for example. How will gentlemen ascertain the votes of their districts, under the general ticket system? How will gentlemen extricate themselves from this dilemma? Will they do it by resorting to the statement, that the state, in that case, is each member's district? If so, then each member is bound to represent the vote of his state. This brings the question back to the ground on which I have already considered it; and the doctrine is subject to all the objections to which I

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have already adverted. It is true, that the gentleman from South Carolina cannot be mistaken as to the vote of the people: for in that state they elect members by districts. Should he recognize the principle of perfect obedience to the voice of his district, then should also every other member. If this is principle, what would be the consequence of adherence to it, in the most of cases—indeed, in the actual posture of affairs at present? It is plain—no President could be made, and the Vice President would come in. If it is principle, we are bound to adhere, but if we may give way, and are not bound to adhere, then it should no longer be dignified with the name of *principle*, but it is a mere question of *expediency*. Again, if we are not bound by the votes of our districts, (as is clearly the case, in some of the states, for the simple reason, that they have no districts,) but are bound by the votes of our respective states, then this dilemma might arise—A member might be obliged to vote for a candidate, who was opposed by every man in his district. Here he gives up the wishes of all his constituents, the only people upon earth to whom he is politically responsible, and for what? To fall in with the vote of the state—and by adhering to that vote, no President is elected and the Vice President comes in, after all these fearless and patriotic sacrifices.

Again: If our states were all of equal size, that is, equal in point of population, and the people fail to make an election in the electoral colleges, it is clear that no election could ever be made by the House of Representatives, should the members recognize as correct, and adhere to the principle, that they are bound to vote in accordance with the votes of their respective states.—In the present unequal size of the states, under any ordinary circumstances of combination, the operation of that principle would defeat an election nine times out of ten; and in no solitary case can an election be made in the House of Representatives by adhering to the principle, except by enforcing the odious doctrine, that the minority shall prevail over the majority—that is, by making thirteen or more of the smaller states, that had voted for one candidate in the electoral colleges, *without effect*, come into the House and do the same, with *complete effect*. What they were unable to do, by reason of inequality of population, they are made to effect by the equality of their sovereignty. Sir, if these are *people's principles*, I, for one, beg to be delivered from them.

It is said that, in matters of *legislation*, it is a vexed question, whether the representative is not bound to obey the will of his constituents, and that many great and wise men have held the affirmative. Sir, I would not give a button for the doctrine, either the one way or the other, so far as regards its *practical utility*. As to the mere theory, I concede it to gentlemen—they may delight themselves with whatever theories they please, whether ingeniously or inartificially constructed. But, though the question, as to legislation, may be vexed, gentlemen tell us, that, in the business of electing a President by the House of Representatives, there can be no doubt—the case is a plain one. Sir, I argue directly the reverse. In the business of legislation, the people, in primary assemblies, cannot act—it is constitutionally, it is physically impossible. There is, therefore, a propriety, in a representative government like ours, that the legislative body should respond to the voice of the people; that, as a reflector, it should give back the true image of the people's wishes. But, in the election of a chief magistrate, the people *can* act in primary assemblies. Those assemblies present the proper and the best mode in which the election can be made. But the people, having attempted an election in this mode, and having failed of success, the constitution brings the election to this House: this House is the *umpire*, the judge on whom devolves the settlement of that momentous question, which the people have been unable to settle themselves, for want of greater unanimity.

Sir, I hope I have now succeeded in showing the fallacy of the gentleman's—pardon me—the *people's doctrines*, of instruction. What, then, is our duty, in the present crisis, and on the appalling occasion? Is it to fall into the ranks of the candidate, who may happen to be the strongest? (A very comfortable doctrine, indeed, particularly, to those who happen to be in the minority; our understandings and conscience approving, we should like to be wafted with you gentlemen, on the strong currents.)—Is it to obey the voice of our states? or, is it to obey the voice of our districts? It is, in my judgment, neither more nor less than this—To do what is right, according to the best dictates of our own understandings, and leave the consequences to God, and to our country.

It has been asked, how can we hold up our heads when we return home, if we have gone against the will of our constituents? Sir, we can hold our heads as erect as an angel. The man who has honestly done, what he understood, after deep and anxious reflection, to be his duty, may meet the eyes of his constituents, aye, the eyes of the world, and neither blench nor quail, though none should smile upon him. It has, also, been said, (and the remark, though it can have none here, may be calculated to have an effect abroad,) that, whenever a man has done deeds of renown, the people delight to honor him, and will, with great certainty, elevate him to the highest offices. Sir, this is a mere truism; every body here, knows that this is true. It is what the people will always do; it is what they have done, in a thousand instances; but, sir, it is *exactly* what, in the present case, they have *not* done. Else, why does the election come to this House? Sir, a majority of the people have distinctly told you, that not even the most favored candidate is the man of their wishes. Neither is elected, though all may have been honored. It is we who must elect.

We have also been told, that, upon grounds of expediency, the sceptre ought not to be placed in the hands of any man who has not a majority of the votes of his countrymen; and that, if we do place it in the hands of such a one, we only place it there to lop off his arm. Sir, this but ill agrees with what is a fundamental principle in the system of the *people's men*. What, sir! are the intelligent and enlightened people of these states, who are so much flattered in one breath, to be represented in the next as ferocious as tigers! Are they to rise in their wrath, and hurl the full weight of their indignant vengeance at an individual who has done no harm? Who has done no one act to excite their displeasure? Suppose three candidates should come before us with an unequal number of votes, I admit we should very properly feel inclined to elect him "*ceteris paribus*," who had the largest number, (for I would not willingly deprive gentlemen of the smallest comfort.) But, suppose the candidate who had the smallest number should, in the result, be chosen President, is it maintained that the people of the United States would rise in vengeance against that man? Surely, sir, whatever phials of wrath might be exhausted on the heads of their guilty representatives, the people would pour out none upon the innocent head of a man who had done no one offensive deed, and whose only crime had been to be constitutionally presented for choice, and constitutionally chosen. We have heard, further, and much to my astonishment, that the doctrine of the gentleman from Delaware would not flourish in old England—nay, that it is too strong even for the military despotism of Napoleon. I scorn to flatter any man, and am sure that, on this occasion, I shall be exempt from the imputation of such design, when I say I was an attentive listener to the gentleman from Delaware, and did think, and still think, that sounder doctrines, or doctrines delivered with more pellucid clearness, never fell from the lips of any man, than from those of that distinguished member; and I did consider the

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demonstration by which they were maintained, precluded reply; and I am happy to find my own opinion bolstered and corroborated by an opinion that comes to me with so much weight and authority.

I have not heard why his doctrines would not flourish in old England; the gentleman from South Carolina did not condescend to favor us with any thing more on that point than mere assertion. As to what was said in regard to the iron reign of Napoleon, and the declarations that he made, it is indeed true, that that despotic ruler *professed* to be governed by the will of the people, (Bonaparte, it seems, too, was also a "people's man.") But, sir, while he *professed* this, he was supported by 250,000 bayonets; and, in such circumstances, what was the "people's will?" It was the will of their tyrant.

Here Mr. M., not having concluded his remarks, gave way for a motion for the committee to rise.

IN SENATE—FRIDAY, FEBRUARY 4, 1825.

## SUPPRESSION OF PIRACY

The Senate resumed the consideration of the bill "for the suppression of piracy in the West Indies."

The motion of Mr. SMITH to amend the 4th section, (which Mr. MACON had proposed to strike out,) being the question pending—

Mr. TALBOT hoped the Senate would not go on debating for days, motions to amend parts of the bill which were then, after all the time spent on their details, struck out; he therefore suggested to Mr. SMITH the propriety of withdrawing his motion to amend, that the question might be taken on the principle itself contained in the fourth and remaining sections of the bill.

Mr. SMITH yielded to this suggestion, to save time, and withdrew his motion.

Mr. TALBOT then moved to strike out the 4th, 5th, 6th, 7th, 8th, 9th, and 10th sections of the bill, (all relating to armed merchant vessels,) which authorize the recapture of vessels from the pirates, taken on the coast of Cuba, &c. allow salvage therefor of one-eighth to one-half, apportion among the crews and owners of merchant vessels, the property of captured piratical vessels, requiring bond of armed merchant vessels, for lawful conduct—authorizing the President of the United States to establish instructions for them, providing for a fund out of the vessels captured from pirates, from which pensions are to be allowed to sailors disabled in action with pirates, and to their families if killed, &c. &c.

On the motion to strike out these sections, a wide debate took place, in which Messrs. TALBOT, BARBOUR, SMITH, HOLMES, of Maine, and MILLS, engaged.

The question being taken on striking out the sections, it was decided in the negative by yeas and nays, as follows:

YEAS—Messrs. Barton, Bell, Boulogny, Branch, Brown, Chandler, Clayton, Cobb, D'Wolf, Dickerson, Findlay Gailard, Lowrie, Macon, Noble, Ruggles, Talbot, Taylor, Tazewell, Thomas, and Van Dyke—21.

NAYS—Messrs. Barbour, Benton, Eaton, Edwards, Hayne, Jackson, Johnson, of Ky., Johnston, of Lou., Kelly, King, of N. Y., Knight, Lloyd, of Md., Lloyd, of Mass., McIlvaine, McLean, Mills, Palmer, Parrott, Seymour, Smith, Van Buren, and Williams—22.

Mr. LOWRIE then moved to strike out the second section of the bill, which is as follows:

Sec. 2. *And be it further enacted*, That the commanders and crews of the armed vessels of the United States shall be, and they are hereby, authorized, under such instructions as may be given them by the President of the United States, in the fresh pursuit of pirates on the Island of Cuba, or any other of the Islands of Spain in the West Indies, to land whenever it may be necessary to secure the capture of the said pirates, and there to subdue, vanquish, and capture them, to deliver them

up to the authority of the Island where captured, or to bring them to the United States for trial and adjudication, as the said instructions of the President of the United States may prescribe.

This motion was decided without debate, by yeas and nays, in the negative, as follows.

YEAS—Messrs. Bell, Branch, Brown, Chandler, Clayton, Cobb, D'Wolf, Dickerson, Findlay, Gailard, Lowrie, Macon, Ruggles, Talbot, Taylor, Van Dyke—16.

NAYS—Messrs. Barbour, Barton, Benton, Boulogny, Eaton, Edwards, Hayne, Jackson, Johnson, of Ky., Johnston, of Lou., Kelly, King, of Alab., King, of N. Y., Knight, Lloyd, of Md., Lloyd, of Mass., McIlvaine, McLean, Mills, Noble, Palmer, Parrott, Seymour, Smith, Tazewell, Thomas, Van Buren, Williams—28.

On motion of Mr. MILLS, some minor amendments were adopted; and

On motion of Mr. BARBOUR, (who wished to accommodate those who objected to the clause as it stood) the limitation of salvage for recaptures, was stricken out, and the amount to be allowed, left to the discretion of the Courts.

The bill was then reported to the Senate as amended, and the amendments made in committee of the whole concurred in.

Mr. LLOYD, of Mass., moved the adoption of the following section, which he had some days ago intimated an intention to offer, viz:

*And be it further enacted*, That for every pirate, who shall be captured by the officers, or crews, or any part of them, of vessels belonging to the United States, and brought into the United States; and who shall be convicted of the crime of piracy, by any competent tribunal, the Secretary of the Treasury be, and he hereby is, authorized and required to pay, or cause to be paid, to the owners, officers, and crews, of the vessels capturing such pirates, or to their agents, the sum of one hundred dollars for each and every pirate captured, and condemned as aforesaid; to be divided among the parties receiving the same, in like manner as is provided in the fifth section of this act, for the distribution of the property captured from pirates; and that the sum of ten thousand dollars, from any money in the Treasury, not otherwise appropriated, be, and the same is hereby, appropriated, for the object aforesaid.

After some debate on this amendment, between Messrs. LLOYD, of Mass., HOLMES, of Maine, MILLS, VAN BUREN, and JOHNSTON, of Louisiana, and the adoption of a verbal amendment, proposed by Mr. MACON,

The question was put on the section offered by Mr. LLOYD, and negatived—16 rising in its favor, and 21 against it.

Mr. VAN BUREN then renewed the motion he had unsuccessfully made in committee of the whole, to recommit the bill to a select committee, with instructions "to report amendments thereto, giving power to the President, on its being satisfactorily proved to him that any of the pirates, mentioned in the said act, find refuge in any of the cities or ports of the said Island of Cuba, or other Islands mentioned in the said bill, and that the local governments of the said Islands, on being requested so to do, neglect, or refuse, to aid in the apprehension, prosecution, and conviction, of such pirates, to give authority to the crews of the armed vessels of the United States, under such instructions as may be given them, to land on the said Islands, in search of pirates, and there to subdue, vanquish, and capture them, and bring them to the United States for trial and adjudication, as the said instructions of the President of the United States may prescribe: and further, to authorize reprisals on the commerce and property of the inhabitants of the said Islands."

Mr. VAN BUREN supported his motion with some remarks; and,



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The question having been, at his instance, divided, was first taken on the clause ending with the word "prescribe," and was negative; and then he withdrew the remainder of the motion.

Mr. SMITH then moved the adoption of the following section:

*And be it further enacted,* That the President be, and he is hereby, authorized to purchase a Steam Boat, of the largest size, and arm and man the same in such manner as he may deem proper; and, also, to cause to be built, four barges or launches, each to mount a gun on the bow, of a calibre to carry a shot not less than six pounds, and capable of carrying thirty men.

This amendment was advocated by Messrs. SMITH, and JOHNSTON, of Louisiana, and was opposed by Messrs. LLOYD, of Mass., and CHANDLER.

The section was amended, on the motion of Mr. LLOYD, of Massachusetts, by inserting the words "*should the President deem it useful or expedient,*" (the purchase of the Steam Boat,) and, on motion of Mr. HOLMES, of Maine, by striking out the words "of the largest class."

The question being then put on the section, as amended, it was rejected, without a division.

Mr. HOLMES, of Maine, renewed the motion which he had unsuccessfully made, in committee of the whole, to insert the following, as the third section of the bill:

*And be it further enacted,* That no public armed vessel of the United States, authorized and employed for the suppression of piracy, shall be engaged or employed in the transportation of specie, or any other articles of freight, unless specially designated therefor by the President of the United States.

The question was taken on this amendment, without further debate, and was decided by yeas and nays, as follows:

YEAS—Messrs. Barton, Bell, Branch, Brown, Chandler, Clayton, Cobb, Dickerson, Findlay, Gaillard, Holmes, of Maine, King, of N. Y. Lloyd, of Md. M'Lean, Mason, Noble, Ruggles, Talbot, Tazewell, Thomas, Van Buren, Van Dyke, Williams—23.

NAYS—Messrs. Barbour, Benton, D'Wolf, Eaton, Edwards, Elliot, Hayne, Jackson, Johnston, of Lou., King, of Alab. Knight, Lanman, Lloyd, of Mass. Lowrie, M'Ilvaine, Mills, Palmer, Parrott, Seymour, Smith, Taylor—21.

So the amendment was agreed to; and then, The Senate adjourned.

#### HOUSE OF REPRESENTATIVES—SAME DAY.

#### THE SPEAKER'S APPEAL TO THE HOUSE.

On motion of Mr. CONDUCT, of New Jersey, the House then resumed the consideration of the motion of Mr. FORSYTH, to refer the communication of the Speaker, to a Select Committee.

Mr. ARCHER, of Virginia, said, that being himself opposed to an inquiry by a committee, and no other gentleman stating any objections to it, he rose to state the grounds of his opposition. No one could be more willing than he was to take any measure to vindicate the dignity of this House, or to respond to the just claim of any member for the vindication of his official character. But, he said, he did not consider that the Honorable Speaker was put in this predicament. What were the circumstances in which inquiries of this kind may, with propriety, be maintained by this House? Ought we (said he,) to lend the grave sanction of our names—ought we to operate, in a formal manner, by committees of inquiry, when nothing is presented to us to act upon but mere vague general newspaper invective? I ask if it consist with the dignity of this House, or with the claim of the Speaker as a faithful officer and a gentleman, to institute this inquiry? I conceive not. What, sir, are the circumstances under which we should be

justified in raising a committee in such a case as this? The act to which our attention is directed, ought to have these characteristics: It ought to be official in relation to the member whose conduct is impeached: it ought, also, to be something which can be proved if true, or disproved if not true. Mr. A. asked of gentlemen to look at the paper which was the foundation of this application, and say whether it came under either of these classes. What is it? The writer of it speaks of rumors afloat here. Does he charge upon the Speaker any act of malfeasance in relation to his duties here? No; he speaks of the course expected to be taken by a large number of members—of an imputation on the whole delegation from a particular part of the country: and, when he speaks of the Speaker, what does he say? Does he charge him with corruption—with any thing which, if proven, ought to produce investigation—with any thing susceptible of proof or of disproof? I suspect, sir, that the gentlemen who are disposed to pursue this inquiry, have not adverted to the paper in question. The only part of the letter which conveys an imputation upon the Speaker, is not even matter of surprise upon the part of the writer of that letter: he speaks of it as a report—as something said and whispered in this place. Suppose this charge were true, said Mr. A. which I take this occasion to say that I would be one of the last in this House or in this country to credit—suppose that it were true to the full extent of the charge, or the insinuation derived from it, what can this committee do if raised? It must, whether the charge be true or not, make a report exculpatory of the Speaker. Shall we raise a committee, then, when we know there can be but one response to the inquiry, no matter what the facts may be? To do so will be to constitute an inquiry which can lead to no useful result. If the things alleged or insinuated be true—if the Speaker be guilty of all the corruption which scurrility has charged upon him, it must be a matter within his own breast, the truth of which no testimony can establish. If the allegations be true, you cannot convict the Speaker of the imputed offence. Any inquiry of ours into it, therefore, will be a farce and a mockery. I will not lend myself to such an inquiry.

What, said Mr. A. does the charge, contained in this letter, in its worst form, say? Does it say that the Speaker has betrayed his duty? No: but that it is surmised that he means to do so. If it shall appear, in the sequel, that that officer has violated his duty, then there will be ground for inquiry. But, at present, suppose it were true, that the Speaker had thrown away the high character he has always maintained in the country and in this House—that he was the venal thing the publication in question would represent him to be, and that he did contemplate this shameful violation of his duty to his country—would he even in that case be punishable here? Would we pass upon him any other sentence than that of ineffable contempt for his corruption and folly? No, sir, said Mr. A. I say that we must wait for some act which will perpetrate the corruption, by consummating the purpose. In that event, circumstances will demand an inquiry on our part. Some act will have been committed against his official duty—some act which is issuable, and can be proved or disproved. It seems to me, sir, that this House will commit its own dignity, and cast a reproach upon the Speaker himself, which I know would be unfounded, by referring this subject to a committee. I hope, therefore, that this House will not grant the inquiry which is asked.

Mr. WOOD, of New York, said, that he rose simply to explain the vote he was about to give. He accorded, in opinion, with the gentleman from Virginia, (Mr. ARCHER,) that the circumstances of this case were not such as to call for any investigation by the House. The statements in the printed publication amounted to little else than vague rumor. They did not charge upon

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the Speaker any act directly criminal. As to the power of this House, he observed that the present appeal was made to it in its judicial character. The House was sometimes erected, by the constitution, into a Court of justice, before which charges were preferred, and evidence taken, which sometimes resulted in the impeachment of a public officer, as was exemplified yesterday, when the Delegate from Florida rose in his place, and made statements charging a judge with mal-practice in his office. In such cases, the House possessed an inquisitorial power, which it becomes its duty to exert. The only other case in which the House acted in a judicial capacity, was, when it punished an individual for a contempt. What were the objects of this latter power? The first was to protect the personal liberty of its members. The second was to prevent them from being overawed in exercising the privilege of free debate; and the third was to vindicate their official purity. The power of punishing contempts extends no farther than this. If the present subject was tested by this rule, it would be found not to be embraced by either of the branches of that power which he had just enumerated. Should the committee be raised, and should it act, its acting must be wholly inoperative, because the inquiry was not supported by the subject-matter. To have any effect, the matter to be inquired into must have terminated in some act either vindictory or punishable. In the present case, there existed no such act, and therefore the inquiry must be useless.

Mr. FORSYTH, of Georgia, observed, that, having made the motion which was now the subject of debate, he wished to say a few words in explanation of its nature and object, in doing which, he premised that the gentlemen who had addressed the House this morning were rather in advance of this question. A communication had been made by the Speaker to the House, requesting the appointment of a committee for the purpose of investigating certain charges which had been brought against him by a member of this House. The present motion is simply for the purpose of referring this communication to a committee. When it got there, he took it for granted that the preliminary inquiry would be, Are the charges to which this communication refers of such a nature as to require the interposition of the House of Representatives? If the committee shall think they are not, they will report accordingly, and the House will either confirm or reject their decision. If the House should confirm it, the committee will then apply to the House for further authority to act in the affair. This appeared to him to be the only rational mode of treating this very unpleasant business. The House was in possession of nothing in relation to it but the communication of the Speaker. The letter, indeed, to which it referred, and which was said to have been written by a member of this House, might be found in certain newspapers, but the House had no evidence that that which was published was a true copy of the letter. It might have been altered or interpolated by the printer. The letter, as published, must be considered either as preferring a deliberate charge of corrupt conduct against a member or members of this House, or as admitting of some explanation which should go to do away such a meaning. The member to whom the letter was attributed, if called upon, will, no doubt, answer at once, and frankly declare what he meant. He will say whether he intended to charge upon the presiding officer of this House the making of a corrupt bargain. If he shall answer in the affirmative, will any gentleman, asked Mr. F. say that this is not an act into which the House ought to inquire, nor one which the House can punish? It was true that there was one difficulty attending the accusation. It charged the accused, not with an act, but only with an intention. The act has not been consummated. The vote has not been given. But I ask, if the charge is a true one, has not the bargain been made?

And, if it has, is not this corruption?—And what then? It ought to be punished. Has not the House power, not merely to reprimand, but to expel, any one of its members who shall have dared to be guilty of such conduct? If, on the contrary, it shall appear that any member of this House, governed by mere rumors, and under the influence of jealousy or mere surmises, shall have presumed to hold up, as an infamous bargainer, as a contractor for votes and influence, a member or an officer of this House, will it be contended that we have no power to punish him? Certainly we have the power to reprimand, and if that is considered as insufficient, we have the power to expel him, as unworthy of a seat in this House. If this is denied, what is a member to do, who is publicly charged with an offence of this nature, or where is he to go? This is the proper and the only place where his reputation can be vindicated. This House, alone, is competent to examine into the charge. Is the accused to appeal to the newspapers? For what? to prove a negative? Such, unhappily, in this country, is the condition of the press, (that palladium of political liberty,) that no man can appeal to it, without a sense of dishonor. He cannot come forward, there, and say, I join issue in this charge, without exposing himself to derision by entering into a competition with newspapers which utter falsehood and truth according to the object in view. He was ashamed to state it to the House, but the fact was so, that, pending any great election, such was the prostitution of the public press, that there was no knowing what to believe; and it was sufficient to pronounce any charge, however gravely made, an electioneering trick, to stamp it instantly with the seal of falsehood. That press, which had been so long the boast of liberty, was, in this country, no longer a protector of innocence; and it had long since ceased to be the scourge even of the guilty, save as it served to excite the sting of a guilty conscience.

In this state of things, Mr. F. again asked, what was an accused or a calumniated member of this House to do? He must throw himself on the judgment of his peers, that, if falsely accused, the guilt of the calumny may revert on its author. As to the power of the House, there could be no doubt; and as to the propriety of appointing a committee, he had himself no question. It is said, indeed, that this charge relates only to intention; the crime has not been consummated, and cannot be until a corrupt act has been performed. But I pray the House to consider a case which I will now present to them. Suppose there is a claimant who has a claim pending before this House for a large sum of money, and he knows that a certain member, from his ability, from his unblemished reputation for integrity, from his long acquaintance with the rules of business, and from general knowledge of the persons of the members, is possessed of great influence over their minds; and that claimant offers this member a bribe, which the member accepts, and circumstances afterwards transpire to bring the transaction to light, between the time of giving the bribe, and the time of deciding on the claim; will any gentleman tell me that we may not punish such a transaction? Will any gentleman tell me that we must wait till the crime is consummated—till the vote is given? Surely not. We may punish, at once, both him who offered, and him who accepted the base coin. The charge, in this case, is, that a member of this House intends to give his influence, and vote, in favor of a certain candidate for the Presidency, and, on that consideration, is to receive a place of profit and honor. Is there any distinction between the two cases? Is not this bribery, to all intents and purposes? If the charge is made, the charge ought to be investigated. If the charge is true, the member charged ought to be expelled from this House. And, if it is not true, the slanderer ought to be punished. I have, therefore, moved to refer the Speaker's communication to a committee. If they think it

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worthy of investigation, they will ask for the requisite authority to send for persons and papers.

Mr. TUCKER, of Virginia, regretted, exceedingly, the existence of such a case as now occupied the attention of the House; but, since it did exist, he thought the course to be pursued was a very plain one. He thought the House could not hesitate to grant the inquiry which had been asked. He recollected that last year a similar request had been made, by an officer of Government, and the House did appoint a committee of investigation. He was sorry that he had not heard all that fell from his honorable colleague, (Mr. ARCHER,) for whom he entertained very great respect; but whose argument, as he had so imperfectly heard it, he would not attempt to answer. He only hoped that the House would, in this case, act consistent with itself. He considered every member of the House as being, in some sort, the property of the nation. A member rises in his place, and informs us that charges have been made against him, which go deeply to implicate his character. Surely, the smallest boon we can grant is an inquiry. The respectability of the source whence these charges have proceeded, entitles them to consideration. They are preferred by a member of this House, in all respects on a footing with ourselves; and if they are investigated, it may turn out, both that the charges are false, and that the member who brought them forward, acted innocently in so doing.

Mr. GAZLAY, of Ohio, said he should not now determine as to the right or duty of the House generally to institute a committee of inquiry of a personal nature. A case might be presumed, he imagined, which would call for such a course, but he much doubted whether it could, in relation to the object, and under the circumstances with which this was brought forward. The time was one of general and national excitement. A great national question was up and about to be determined—the election of a President. At this moment, when we owe to ourselves, when the nation has a right to demand of us, a cool, unmixed, and undivided attention to this object, he thought it highly improper, he might say, dangerous, to commingle with it extraneous and personal inquiries; inquiries which must inflame, but could give no lights or balance to the mind; inquiries which might well increase our prejudices, but could certainly remove none. He thought it our duty to put down and to keep back subjects of this character. It was personal, and not national; it would have more the appearance of persecution than of inquiry. He thought it inconsistent with the character of the nation, as well as that of the House, to permit the inquiry, at this moment. He felt that higher considerations than personal ones should induce us to postpone the question; during which he did not believe that the character of the gentleman would be at all impaired in the public estimation, by the postponement, and certainly not as much as that of the nation might by the inquiry. He was convinced that no good, public or private, could result from the inquiry. He would, therefore, move to lay the motion on the table.

Mr. WRIGHT, of Ohio, said he was not certain that he understood the gentleman who opposed the proposition to raise a committee in the case under consideration; but if he did, the opposition rests on the hypothesis that the letter alluded to, and avowed on the floor, by a member of the House, contained no charge of any offence, or of any specific act done, which, if found true, would lead to any ulterior measure, in relation to the accused, or, if found false, to any like measure, in relation to the accuser—that there is no specific charge here, of any act done, but all rested on common rumor, of acts not yet consummated—still resting in intention, which could not properly be investigated, until ripened into act.

Sir, I have no objection to consider the matter in this point of view, and to meet gentlemen on their own ground. I will undertake to show to the House, that

there is, in the publication, a direct charge against the presiding officer of this House, of having entered into a corrupt bargain, in relation to his vote, and that of his friends, on a question pending, devolved upon us by the constitution, of the highest and most important character that can devolve upon us, and which is soon to be decided. If I do this, sir, it will be idle to say, we can take no measures to investigate such a charge, until the intended corrupt act is consummated; because the question is hastening on, and we should free ourselves from the effect of the corrupt bargain, and not suffer it to pollute our legislative Hall, and be carried into the election, where it is intended to operate, before we can move. When it has produced its effect, it will be of no use to take any step in relation to it.

The writer of the letter, sir, commences by stating his object, in writing, to be, to give information “of one of the most disgraceful transactions that ever covered with infamy the republican ranks.” A transaction so base, that it laid the axe at the very root of the tree of liberty. He proceeds “to give a brief account of such a bargain, as can only be equalled by the famous Burr conspiracy of 1801,” and then goes on to state,

1st, That, “for some time past, the friends of Mr. Clay had hinted, that they, like the Swiss, would fight for those who would pay best.

2d, That overtures were said to have been made by the friends of Adams, of the Department of State, to Mr. Clay, for his aid to elect Mr. Adams.

3d, That the friends of Clay informed the friends of Jackson of the overture, and hinted, that, for the some offer from Jackson's friends, they would close with them, but none of the friends of Jackson would descend to such mean barter and sale.

4th, That Jackson's friends did not believe that the contract would be ratified by the members from the states who had voted for Clay; but that it was the writer's opinion from the first, “that men possessing any honorable principles, could not, nor would not, be transferred like the planter does his negroes, or the farmer, his team and horses.” But, he says, “contrary to this expectation, it is now ascertained, to a certainty, that Henry Clay has transferred his interest to John Quincy Adams, and, in consideration of this abandonment of duty to his constituents, it is said and believed, should this unholy coalition prevail, Clay is to be appointed Secretary of State.”

The charges contained in this letter, against Mr. Clay's friends, among whom I am proud to acknowledge myself, I shall not now notice, as I consider those charges only incidentally before you; but the charge against him is clear and explicit—one that I think no man can mistake, as positive in its character as any one could wish. It is, “that it was ascertained to a certainty that H. Clay had, by mean bargain and sale, transferred his interest to Adams, and, in consideration of that abandonment of duty to his constituents, if the unholy coalition succeeds, Mr. Clay is to be appointed Secretary of State.” Is this no charge imputing conduct to the Speaker, in his representative character, calling for the interposition of the power of this House, or in any way affecting its dignity? Perhaps no language is so suitable to give a character to the charge as that of the letter writer himself. I will present you his own character and opinion of the charge nearly in his own words. He characterises the contract imputed, as predicated on an *abandonment of duty*, (by Mr. Clay,) to his constituents: as an *unholy coalition*: as a mean *barter and sale*, of the character of a transfer, by a master of his *negroes*, or by a planter of his *team and horses*: as equalled only by the famous Burr conspiracy of 1801: as the most disgraceful transaction that ever covered with *infamy* the republican ranks: so base as to lay the axe at the very root of the tree of liberty: a transaction *no men possessing any honorable principle* would submit to. Surely, no gentleman will say that

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such a charge, so characterized by the writer, and avowed on this floor by a member, with a pledge to prove it true, could be regarded as imputing no turpitude or crime, which, if true, would not lead to ulterior measures; it is too clear to admit of doubt. But, it is said, the interest spoken of, means only Mr. Clay's own exertions. Sir, this is not the understanding of the member who penned the charge: He says, "Jackson's friends did not believe the contract would be ratified by the members from the states who voted for Clay, and that it was his opinion that men possessing any honorable principle could not, nor would not, be transferred, like the planter does his negroes, or the farmer his team and horses; and that, in consideration of the transfer, Mr. Clay was to be appointed Secretary of State." Who are here said to be transferred? Mr. Clay's friends in the House. Who made the transfer, and was to receive the consideration? Mr. Clay. The presiding officer of this House is directly and positively charged, by a member in his place, with entering into a corrupt contract, by which, for the consideration of an office, dependent on success, he stipulates to transfer his own vote, and those of the members from the states who had voted for Mr. Clay for the Presidency, to one of the three candidates presented to us to choose a President from: or, if it be not a positive charge, I have no conception what idea the gentleman attaches to a positive charge. We are told, sir, with this charge before us, that no offence is imputed—that all rests on rumors—nothing affecting, in the slightest degree, the dignity of the House!—your presiding officer corruptly selling his own vote, and that of his fellow-members, is no offence to the dignity of the House!—that no ulterior measures can grow out of such a charge, if true; and that it is beneath our dignity to notice such vague rumors! Sir, will you go to the election of a Chief Magistrate while corruption fills your Hall, and seeks to find its way into your ballot boxes? No, sir, let us go to that work with pure hands, and drive these corrupt bargainers from our presence. Let us investigate these charges; and, if they are found true, I have no hesitation in saying, your Speaker is unworthy the station he fills, or a seat on this floor; and I, for one, will vote for his expulsion, as I would any member, who would falsely make such a charge. We ought not to stop until the deed be done, and then seek to punish; but should proceed now, in time to prevent the mischief, and satisfy the nation that, when we go into the election, we are free from the imputation of corrupt influence.

Mr. Speaker, I do not wish to trespass on the time of the House, but felt myself impelled to make the remarks I have.

Mr. M'DUFFIE, of South Carolina, next rose. He was sorry, he said, to be obliged to trespass on the attention of the House on this most unpleasant business. But, if we adopt the course suggested, said he, we must inflict on the character of this House an injury much greater than it has yet sustained. Before we adopt any measure—before we determine the legitimate extent of our power, we must ascertain that there is some lawful act which we may do as the result and consequence of that investigation. Sir, this House is not a mere collection of individuals, who are to constitute themselves into a corps of purgators. Whether a charge preferred against a member be true or false, it is not for this House to organize itself into a tribunal, to try its truth or falsehood, unless it has a right to do some act founded on the truth or falsehood of that charge. In the case now before us, what are we to do? In what is this inquiry to end? If we had any legitimate object in view, either to expel the Speaker, or the member who has made the charge, we might be justified in this proceeding. But let us meet the question as it stands, and inquire whether, upon the actual state of facts, this House has the power to expel the Speaker or the member.

Notwithstanding the ingenious exposition of the honorable member from Ohio, Mr. M'D. said it was perfectly clear, and any one who dispassionately perused the letter, would come to the same conclusion, that no charge was made in it against any portion of this House. The writer speaks in general terms of a combination, a coalition, an unholy coalition; but, said Mr. M'D. when you come to have the historical, or narrative part of the letter, you find it is nothing more than that it is "reported," and "believed," that such things are, as are recited. For a long time, he says, the charges were not believed, but that now they are believed. The existence of such combinations, &c. is stated, but as a mere matter of belief. By whose agency does he say these combinations are supposed to have been produced? Is it by that of the Speaker of this House? Let any one put his finger on the passage in the letter which says that the Speaker has made, or accepted, any proposition leading to corruption. It is *his friends* who are said to have thrown out hints, &c. If the letter contains any charge, it is not against the Speaker but against his friends. His friends, where? He has friends out of this House, and in this House. It does not appear that even any member of this House is included in the allusions of the letter. The charge, then, is one which is founded on rumors, vague and indefinite—a charge against individuals not named.

But, sir, I have a much stronger objection to this proposition, than any which results from the particular inquiry into the nature and character of the charge. I go on higher ground, and I deny that we can prosecute this investigation, with a view to an act by which alone it can be consummated, without violating the highest privileges of the people of the United States. We have been told of the danger of the liberty of the press, and the dangers to which the liberties of the country will be exposed by indulging it. These, sir, are the arguments by which, in all countries, that essential palladium of liberty has been assailed. This is not a new subject in this country. This is not a new inquiry, though in a new form. There was a time, some twenty or thirty years ago, of great public excitement, when the people of this country were rising up against an administration which was not acceptable to them, and this subject, regarding the powers of the Government, underwent deliberation by Congress, and an act on the subject was adopted. The question, whether this Government has a right to protect itself against investigation, by enforcing (not the common law of England, but) the common law of England with important modifications, to punish those who libel the Government, was determined in Congress by the passage of an act, which act was nothing more or less than the famous sedition law. On what argument was that law founded? On this: that the Government could not protect itself by the common law of England. But what was the proposition embraced by that act? Was it an act to authorize any branch of the Government to punish by its own act a libel upon it? Was that the proposition? Was it a law to authorize a person in office to become his own avenger? No: it was a provision that, if the Congress, or any officer of this Government, was libelled, the party injured might apply to the judicial tribunals, and call upon a jury of the country for redress. It was there that the investigation was to be prosecuted, and, if the charge was false, it was there to be punished. What said the country to that law? The people rose indignant against it—the law was repealed—and no man now rises to do honor to the name or memory of it. No man rises to vindicate that law. And what are we about to do? We are not only to punish a libel alleged to have been uttered against a member of this House, but we are about to punish it in a form characteristic of tyranny. We are about to prepare the law, judge the facts, and inflict the punishment, by the same act. We are called upon to punish a

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publication in relation to an ordinary act of this House, on a matter deeply interesting to the public. We are called upon to punish it by our own will, and under an excitement which every one naturally feels when an attack is made upon him.

In this country, the law of libel—for that is really the question now to be discussed—has received very important modifications, mitigating it to a degree very far below the standard of other countries, even of the freest country next to the United States. The English law of libel is not that of the United States. What is the modification of it in this country, not by statutory enactment, but by the mere force of judicial decisions in conformity to the genius of the government? By the law of libel in England, a man may be punished although he tells the truth. What is your law? That charges against a public officer, in relation to his public conduct, shall not be the subject of prosecution for libel at all; that the public is so deeply interested in the investigation of its concerns, and in the exposure of faults or vices in its agents, that this power of punishing for libels shall be taken from their hands altogether. That was the principle upon which the sedition law was repealed—not because a man ought not to be punished for a libel, but because the power of punishment was so liable to abuse, that the government had better throw itself upon the intelligence and magnanimity of the country, than exercise such a power.

What, then, sir, are we about to do? The thing condemned by public opinion—and to do it in a form more exceptionable than any ever contemplated by the old sedition law. Let us ask ourselves, what are the purposes to which a power of this description may be applied at a future time. What does this letter, which is the ground of our proceeding, relate to? The election of President of the United States. How is that election to be made? What remains to be done for its completion? The work, which commenced with the people, is to be consummated *here*. Where are we? In the midst of our constituents? No, sir, we are far removed from the eye of those to whom we are responsible. Under what temptations do we act? Under temptations, by which personal interest may induce us to act contrary to the public will. We are not only to be excluded, possibly, from the public eye, but we are to choke up the channels, through which, alone, the people can know what is going on here. Is it not more important that public opinion should be enlightened by the general dissemination of a knowledge of the acts of public agents, than that, even to redress a wrong, we should establish an engine, which may, hereafter, be liable to the most pernicious abuse? There is no subject in regard to which rumors may not be circulated, and the ground of our proceeding is nothing more than rumor. Suppose the liberties of the country were really in danger. We had a scene here, four and twenty years ago, to which it may be salutary to recur, with a view to estimate what may occur hereafter. How did the people ascertain the machinations of that day? How was the loud voice of reprobation made to sound through the country? By the reports, the rumours, then in circulation. If you are forbidden, by a decision here, to disclose rumors, reports, and speculations, on political topics, then the object of the intriguer, the conspirator against the public interest, is accomplished. If you hold up the arm of terror against every man who speculates on probabilities, or gives currency to rumors, you realize the dead silence of despotism. When you lull the sentinel to sleep, the conspirator may fearlessly walk abroad in the dark, and the public eye cannot detect him. A precedent more dangerous has never been set in this government, than would be by the institution of this inquiry.

A few words, said Mr. M'D. as to the analogous powers, exercised in other countries, of punishment for contempt. If the member from Pennsylvania is to be pun-

ished, it is for a contempt. And, without pressing the argument, that a publication in a newspaper cannot be a contempt—without going into the argument, that that which cannot be a libel, cannot be the basis of a motion to expel a member for contempt—I could show, that, according to the practice of the English Parliament, the case now before us never could be made out to be a case of contempt of this House. Mr. M'D. asked for a precedent to show that a charge made against any member, was a contempt of the House. The charge, to be a contempt, must be, according to all precedent, a charge against the House, or against some organized committee of the House. That was the rule in the British Parliament. If one makes a charge against either House, the English Parliament, being supreme, which I trust we are not, has the power to punish for contempt, but not in the case of a charge against any individual member. In every view of the subject, he thought the House ought to pause in its course.

But, the House had been told that, in this case, a precedent was to be found in the investigation which took place at the last session. Not so, Mr. McD. said. The investigation in that case was not founded on newspaper publications, but upon a memorial addressed to the House, calling upon it to institute it. How, said he, have we got this matter before us? How did it come here? Who brought it? A publication appeared in a remote newspaper. Suppose it had been by the Editor of the paper, would we call him here, and punish him? That is not pretended. Is a member of this House deprived, by his election to this station, of the common right of a citizen? No. If that letter merely had appeared before the public, we should not have gone into this inquiry. How did that letter get here? The member who brought it here issued, in a public print, the following Card: [Here Mr. McD. read the whole of the card, till it came to the passage where it says, "and if he (the author of the Philadelphia letter) dare unveil himself, and avow his name, I will hold him responsible"—not, said Mr. McD. to an investigation before this House, but—"to all the laws which govern, and regulate the conduct of, men of honor."] Now, sir, said Mr. M'D. so far as this letter has been traced to a member of this House, the avowal of it has been extorted—drawn out—by this publication. If I were to go into the question of a breach of privilege, on this occasion, I would say, here, in this "Card" is a breach of privilege—a public challenge is more a breach of privilege than the writing of that letter; and yet, after the name of the writer has been thus extorted, this House is called upon to interfere in the matter. So far as a change has been made in the character of this case from that of a mere newspaper publication, it has been done in a way which gives it no title to our countenance. The name of the writer has been extorted by this challenge, and all that follows partakes of this personal character. Both as regards the individual concerned, the circumstances of the case, and the high public principles involved in it, I think it most inexpedient to adopt the resolution for appointing a committee. I appeal to the good sense and good feeling of the members of this House to say, if it were even proper to institute such an investigation, whether a more unfortunate period for it could be found, in the history of the country, than this; and whether this House is to be disturbed and thrown into commotion, by the introduction of such a matter as this, on the eve of a Presidential Election, when the character of the House, and the honor of the country, more than ever, require tranquillity and propriety in the proceedings of the House.

Mr. FORSYTH said he had not interrupted the gentleman from South Carolina, because he knew he should have an opportunity to explain, after he had concluded. The gentleman has, said Mr. F. very adroitly brought the old sedition law to bear upon me. But, sir, I did not say that the press was dangerous to liberty. Far



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from it. I said that it had ceased to be dangerous: that its corruption was so great, that a charge against a public man could not be met by him, in the press, without self-degradation. It is not the danger of the press that I deprecate. I wish it were more dangerous than it is; and that every charge made against a public officer should compel that officer to appeal to the press. At present, on the contrary, an individual gives currency and color to any charge against him, by appealing to the press. This he considered a great misfortune, and deeply regretted it: but such was the fact.

Mr. M'DUFFIE said he was happy to be informed that he had misunderstood the gentleman, and hoped that no gentleman in the House entertained such a sentiment as that disclaimed by the gentleman from Georgia.

Mr. FULLER, of Massachusetts, rose to offer a few observations upon some of the grounds taken by the gentleman from South Carolina, (Mr. M'DUFFIE.) He concurred with him in the conviction, that the allegations in the letter, which had been published in the Philadelphia newspaper, were utterly groundless; that conviction, Mr. F. believed, was universal, or nearly so, among the members of this House. Were it not so, he could not doubt that every member, who really believed in the existence of such corrupt bargaining, as the letter alleged, would promote the proposed inquiry. He was convinced that those who now opposed the investigation, did so with the belief that no such corruption existed. Had the charges been confined to anonymous publications in the newspaper, I would not, said Mr. F. have given my vote for the inquiry sought. But, when the member from Pennsylvania stands up voluntarily in his place, and reiterates the charges by adopting the letter as his own, I think the House is bound to treat it in a different manner; I say *voluntarily*, for there was no color, as far as I could discern, for the suggestion of the gentleman from South Carolina, that he was surprised or intimidated into the course he took.

Charges thus deliberately made on this floor, by a member of the body, against a member distinguished as its presiding officer, of having corruptly transferred his vote and his influence to defeat the will of the people, and betray the interests of his constituents, the honorable gentleman from South Carolina tells us cannot be legitimately investigated by this House, because the result of such investigation can lead to no "constitutional act" on our part. Surely, the position of the gentleman cannot be sustained; if it could, I might agree with him in opposing the commitment. But, sir, if the charges are proved, I am confident that a remedial power exists in this body. It can perform a "constitutional act," by the expulsion of the person upon whom the stain of corruption is fixed. Nay, sir, instead of deeming the present time improper or unseasonable, in my opinion it is the very moment when it becomes us to act with promptitude and energy. The public excitement, which gentlemen so much deprecate, can be repressed in no other way. An election by this House is at hand, in which the whole nation takes a lively interest; in conducting which it behoves us to act with such fairness and independence, as to defy malice and repress suspicion; innumerable letters have gone abroad, and some of them been published, fraught with charges of corruption in our body. A member, in his place, avows himself ready to prove the charges contained in one of the most outrageous of them; and how does the gentleman propose to allay the public excitement? Why, by stifling the inquiry, by suffering the charges to go abroad—to extend through the community—to gain the ear of the public, without any such contradiction as can counteract the poison! No, sir; this can never allay the excitement or prevent the mischief.

It is only by adopting the severest scrutiny into the truth or falsehood of the charges, and if found to be

false, as the gentleman himself appears to anticipate, by sending forth the authentic refutation, that the people of this country will be satisfied. This alone will allay the excitement. The people have the highest confidence in their representatives, and this course will confirm that confidence.

But, sir, the gentleman resists the inquiry upon another ground. The *freedom of the press* will be invaded by pursuing it! There is not the shadow of reason for the apprehension. He treats it as if the printer or the writer of the letter were arraigned at our bar for the publication, as a contempt of the House. No such thing is proposed. So far from the liberty of the press being menaced by the proceeding, it in fact affords the press the means of effecting its professed object. This object is presumed to be, as it professes, the promulgation of truth for the prevention of mischief. Instead of arraigning the printer at our bar, we forthwith institute an inquiry, and, if the publication is proved, the remedy will be complete and the object be attained. Even if found to be false, the printer remains untouched; nay, the writer of the letter, a member of this body, incurs no personal danger; unless, indeed, it should appear, which I do not believe, that the publication was made maliciously, with a knowledge of its falsehood. To suppose this, or to indulge a belief that a base conspiracy exists to affect the approaching election, by spreading abroad rumors of bargains and intrigues between any of the candidates and the members, by whom the election is to be made, would imply a want of candor, which Mr. F. said he freely disclaimed.

Believing, therefore, Mr. F. said, that the charges were so presented, and were of such a nature, that if sustained, the House might proceed to punish the guilty, whoever they might be; and if not sustained, that the speedy and authentic declaration, on the part of the House, that they were groundless, would quiet the anxiety and dissipate the jealousy engendered by false surmises and groundless rumors, through the community; he could not but hope the Committee would be appointed.

Mr. LIVERMORE, of New Hampshire, then observed, that he was not going to trouble the House with a long speech. He would only make a few remarks, which he hoped would have a tendency to shorten, rather than prolong the debate. What, asked Mr. L. is the subject before the House? A member of the House has presented to it a complaint. About what? That his privilege is endangered. If that is not the subject before us, then there is none. But this, surely, has no necessary connection, either with the Presidential election, or the liberty of the press, or the freedom of the people.

He believed that the liberty of the people, and of the press, had generally gone hand in hand together. Every member of this House, has certain privileges, and these privileges must be vindicated, or the government must be prostrated. A member says his privilege is invaded. What is to be done? Mr. Speaker, I think we are in the straight course. He has demanded that the charges against him, may be investigated. Shall we forestall the committee who is to investigate them? Certainly not. First appoint your committee. Let them report, and then will come the hour of debate, not now. Shall we say, that we will not allow a committee? Is it not our every day practice to grant committees? To grant them on almost any and every subject? It is the daily routine of the House. Mr. L. concluded by appealing to the candor of gentlemen, whether they ought not to forbear debate until the committee shall have reported.

Mr. RANKIN, of Mississippi, said, that he regretted exceedingly that there should be any occasion supposed to exist for the House to investigate the charges which had been preferred, and he should regret much more, if, from any cause whatever, the House should be led to compromise its own dignity, either at this, or at any other

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time. He had listened with attention to the present debate. He had examined the nature of the charge which gave rise to it, and the result of his deliberation was, that it was neither necessary, nor proper, to appoint any committee to investigate them. He had attended particularly to the member from Georgia, who had introduced the present motion. He alleges that the House may send the communication of the Speaker to the committee, without exercising any jurisdiction in the case. But surely, it ought not to institute an inquiry unless after it has inquired—is it competent to act? He deprecated the effect of this inquiry on the community.

He thought it was best to leave the matter to the courts of justice. If, indeed, this were the only tribunal to which the accused member could resort, he should feel inclined rather to stretch the powers of the House than not afford him the investigation he desired. But such was not the case. The ordinary judicial tribunals of the country were as open to that member as to any other person, and he might vindicate his character there. The case of the last session, which had been brought as a precedent, had, he thought, no analogy to the case now before the House. These charges had been brought by a person appointed to act in a diplomatic character, against an officer of the Government high in place, and the charges related wholly to his official acts. No such case is now presented. The charge is made against the Speaker, not as an officer of this House, but merely as a member of it, and not for official acts, but for acts of a personal nature altogether. The Speaker possessed a double capacity, both as an officer of the House and as a constituent member of it. As an officer of the House, he was entitled to its protection. He was not now assailed as its officer. There might, indeed, occur a case in which the Speaker of this House might be accused of some great crime against the laws of his country, and the accusation might be accompanied with such strong presumptive evidence of his guilt, that it might be the duty of the House to interpose at once. But, in this case, the Speaker was no more than any other member. What would be the nature of the precedent, if it should be set? A member is charged, in a newspaper, with certain political offences. He immediately appeals to the House—(and here, said Mr. R. let me remark, that all the members from the West have equal, if not greater reason to appeal, than the Speaker,) and the House grants the investigation—what will be the practical effect? This House will be made a tribunal before which any charge, in any newspaper, in any part of this Union, is to be brought, that its truth may be investigated.—Why, sir, how will our time then be occupied, or what portion of it do you suppose will be left for legislation? The gentleman from South Carolina, (Mr. M'DUFFIE,) alluded, and very properly, to the session law. The Constitution declares that "Congress shall make no law abridging the freedom of speech or of the press."

What, asked Mr. R. was the intention of the framers of the Constitution, when they inserted this article? Not, surely, that a man may publish what he pleases and not be responsible—but only that he should be amenable to the laws, and if called to an account, should be entitled to the judgment of his peers. I cannot see how this differs from ordinary cases of libel, or why it should not go to the ordinary tribunal, unless, indeed, the Constitution has said that this House shall constitute a court, expressly for the trial of questions of honor. Sir, the People of this Nation are not prepared for such a measure as is now proposed. They are not prepared to see a man punished for laying open what he conceives to be a corrupt conspiracy; they have been accustomed to let every man publish what he will, and be held liable to the laws for so doing. Look at the effect; some member makes a charge against his fellow-member; Congress takes up the affair, and acquits or condemns. No jury can afterwards pass upon the case, in any court, without

being more or less influenced by our act. The precedent is dangerous. Mr. R. thought that it was not the duty of Congress to seize on a publication and take it out of the ordinary course of investigation. In the present case he felt perfectly impartial—he knew no difference between the Speaker and the gentleman from Pennsylvania; he could not sit down, however, without observing that the present was an inauspicious moment for going into such an investigation. It was practically impossible to separate the question from the great contest which was just approaching.

Mr. STORRS, of New York, said, that, in his judgment, the subject before the House was to be viewed in two aspects—the one of which regarded the reputation of the individual member accused, the other concerned the character of the House itself. He should not hesitate to say that, in the first aspect, he thought the House should always exercise their discretionary power to the most liberal, and, perhaps, generous extent. He should be ever jealous of the honor of its members, and, whenever asked to interfere, officially for its protection from calumny, which affects them in the discharge of their duty here as representatives, should not be scrupulous in granting an investigation of the charges. I would, in the first instance, said Mr. S. go so far as generally to permit any gentleman here to be his own judge in a matter which thus affected his own honor; and, if he deemed an investigation necessary to his vindication, grant him an inquiry. He would not express an opinion on the matter now before the House, so far as any one might be concerned as an individual, for it had now assumed a character which involved the honor and purity of the House. It is no less a question than whether we shall vindicate the House itself, from the imputation of direct bribery. If the character of its presiding officer is concerned, and if that seat is even suspected to have been tarnished with dishonor, and we deny the most rigid inquiry, the public confidence in us will be forfeited. It is impossible to conceal, and useless to disguise the fact, that, in every thing which concerns the interesting question which has devolved on us at the present session, the public eye is upon this House. The People of these states look to it as they should, with the most intense interest. We may expect the severest scrutiny of all which transpires here. I fully accord, said Mr. S. to the general views expressed a day or two since on this point, by an honorable member from Pennsylvania, (Mr. BUCHANAN.) The people will demand that no mystery shall shelter the conduct of their representatives from the public eye—that, if corruption and intrigue should be suspected to exist, it shall be dragged from its lurking places—that, if light is demanded by our constituents, inquiry shall be had—full, perfect, and severe inquiry.

What, then, is the true character of the matter to which it is now proposed to extend the interposition of the House? It was stated in a public print that a base and corrupt bargain had been made for the transfer of the votes of certain members of this body, to one of the persons from whom the selection for the next President must constitutionally be made. It is not alleged to have been done out of doors. The publication expressly charges that this corruption exists within these walls—that it was the opinion of the writer that men of honorable principles would not consent to be "transferred" in that way; and, in a subsequent part of the letter, it is directly asserted that it is now ascertained to a certainty, that the member of the House who presides over its deliberations has transferred his interest. The charge is unequivocal and direct. The consideration is stated to have been paid, and believed to have been the acquirement of an office of high trust in the Government.

No essential part of this letter is stated to be founded on hearsay or rumor, except the last paragraph. It

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boldly announces to the Nation, that, however strange, base, or disgraceful, the transaction may be, it is nevertheless true. It is stigmatised—and, if true, justly—with the most odious and offensive epithets, and concludes with an appeal to public opinion, to stay the consummation of the profligate contract. This paper was laid before the House, by the member whose name was thus publicly given, as the party to this foul bribery. I am not prepared, said Mr. S. to give an opinion, whether, if this were all which we had before us, the House, considering other circumstances, which are well known to have been intimately connected with the subject, would not have found some extrinsic difficulties in the path of its interposition. But, when the communication was made, a member from Pennsylvania, who is entitled to our respect, rose in his place, and avowed substantially to the House, his readiness to meet the inquiry which was asked, and to prove the truth of the charges. After such an avowal, in the presence of the House, and from a member of the House, Mr. S. said, that he felt bound to proceed, and vindicate the House from the charge, or punish the guilty partakers of this corrupt conspiracy. The honorable member from South Carolina, (Mr. M'DUFFIE,) expressed an objection to the inquiry, because no constitutional act of this House could result from the investigation. Mr. S. said, that, if the charge should be proved, the duty of the House was, in his opinion, clear and plain.

The power of electing its own presiding officer involved, as an insuperable incident, the power to displace him. He holds that exalted station by the will of the House, and during its own pleasure. Its power may be directly exercised to degrade him from that honorable place; and, under another power expressly granted by the constitution, to expel him from the House, as unfit to be associated with the public councils of the nation. Will any one undertake to convince the House, that, if its presiding officer should be convicted of theft, (if, said Mr. S. I may suppose a case so offensive,) we have not the power to dethrone him from the seat which he had thus dishonored? If he is charged with bribery and the mean barter and sale of his vote as a member, is it an offence less involving the purity of the place? If the charge was proved, is there any among us who would not feel degraded in the occupation of one of these seats?

Sir, said Mr. S. the place of a Representative here is one of the most transcendent trusts in the gift of the free people of these States. The charge preferred against our presiding officer strikes at the foundation of all public confidence in the purity of the House. If we refuse inquiry, especially at a moment and on a subject peculiar as the present, what will be the suspicions, just or unjust, of a people generously jealous of the honor of their rulers, and who must feel in some degree the degradation of their Government, in the scandal of their public councils? If these charges can be proved, I would not sit here for a moment, if I thought that we must patiently bear the humiliation of such a place. Our situation is at this moment peculiarly delicate. Rumor has been busily employed in sapping the foundation of all confidence in our proceedings. The public prints have disseminated far and wide the basest insinuations against the honor of this House. It is scarcely a day since I read in another print, from New York, a charge of another coalition here for power. I know it to be false, and we all know it to be so. But, sir, the public mind may be poisoned by this inveterate perseverance of the press. It becomes us, in my judgment, to act firmly and promptly—to bring, if necessary, every member of the House to the scrutiny. If the honor of our Speaker is implicated by the inquiry, it is our solemn duty to purify the House from the dishonor. If calumniated, we not only vindicate him, but ourselves, from the suspicion. The charge is too palpably made to be evaded. The proof is offered,

and if we now deny the inquiry, the nation itself will inquire, and pass their judgment on him and us, without proof. Mr. S. concluded by saying, that, if the inquiry should be had, and any charge substantiated which affected its presiding officer, if not with crime, even with dishonor in a literal sense; he should consider the House bound to proceed another step, and he would, for one, proceed to the last resort, if one of his own kindred occupied the place.

Mr. M'DUFFIE said, that the very strong and imposing statement of the gentleman from New York, had not affected his first view of this question. The House ought not, said Mr. M'D. according to my argument, to institute proceedings in this case, unless their proceedings were to lead to some act: and I say, again, that these proceedings can lead to no result or act which this House is adequate to perform. But I am answered by the gentleman from Massachusetts, and again by the gentleman from New York, that a result can take place: that we may dethrone the Speaker. Sir, my maxim is, never to profess to do one thing, when I mean another. Does any gentleman believe that the object is to dethrone the Speaker? Does the gentleman from New York mean to dethrone the Speaker? Has he said that he does? He has not, and he does not mean to do it. The object is, under a show of doing one thing to do another. The gentleman had said that those who oppose the inquiry believe the Speaker innocent. What, said Mr. M'DUFFIE, is the converse of this proposition? That those who advocate the inquiry, believe him guilty. Was this the fact? The gentleman had said, that rumors are abroad, and that the House would lose the confidence of the nation. Sir, said Mr. M'D. you are taking the course calculated to destroy it. Are we to gain public confidence by instituting an investigation into a newspaper publication? It is degrading to the House. As far as I am concerned, I feel it so. Suppose that my constituents were to assail my conduct in a newspaper, or hold public meetings and send me instructions how to act: would I have a right to send the Sergeant-at-Arms to bring them here to answer for their conduct? If they have rights in this respect, their Representatives here have the same. We do not lose the rights of citizens by coming here. What said the gentleman from New-York? Why, that, in a N. York paper it was reported there was a new coalition—in a Virginia paper I have seen a rumor of another. Sir, shall I move an investigation on that ground? Rumor, with her ten thousand tongues, is busy on the subject, and if we give ourselves up to the investigation of rumors, we shall render ourselves pitiful and degraded. If the honor of the House is not to be preserved but by a course which will destroy the freedom of opinion and investigation, that honor is not worth preserving.

Mr. STORRS said he perfectly concurred with the gentleman from South Carolina, that this House was not, on mere rumor, to institute an investigation. If the gentleman so understood me to say, said Mr. S. he wholly misunderstood me. The doctrine I urge is this: that, when a matter comes before this House in any way that affects the official purity of any member, and another member has risen in his place, and pronounced that he has proof to offer of that matter, then it is proper for us to inquire into it.

Mr. FULLER, of Massachusetts, said that the gentleman from South Carolina, (Mr. M'DUFFIE,) had adverted to his former remark, that those who opposed the investigation of the charges, disbelieved the existence of any corruption, or any ground whatever for the accusation, and the gentleman, (Mr. M'DUFFIE,) had thence inferred, that those who are in favor of the investigation, believed in its existence. A more palpable *non sequitur* Mr. F. said, could hardly be conceived. It goes upon the supposition, that the only inducement for inquiry is to prove guilt. So far from that, my hope and firm be-

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lief is, that such an investigation will establish, beyond all cavil, the innocence of the party accused. This I doubt not, is anticipated by nearly every individual of this House; and does the gentleman think it of no importance to refute calumny, to sustain the innocent, to disabuse the public, and to eradicate the poison of suspicion from the very core? This, sir, is my purpose, and, I trust, the purpose of those who support the resolution for inquiry; a purpose which I am sorry to observe there is so great a reluctance, on the part of its opponents, to adopt the only reasonable mode of attaining.

Mr. ARCHER then moved to *postpone* the further consideration of the subject *until Thursday next*, when, if there was any such thing as corruption in the case, it may have been consummated, and the House would then be authorized to make an inquiry, which, in his opinion, it was not authorized to make at the present time.

On this question, Mr. SANDFORD, of Tenn. demanded the yeas and nays, which were ordered.

Mr. CADY, of New York, moved that the further consideration of the subject be indefinitely postponed.

The chair decided this motion not to be in order.

The question was then taken on postponing to Thursday, by yeas and nays, and decided in the negative—yeas 62, nays 145.

The question then recurred on referring the communication of the Speaker to a committee.

Mr. SANDFORD, of Tennessee, said that, before that question was taken, he wished to offer a few remarks. He called upon the House to reflect for a moment—the question was important—the fact charged approached nearer to an overt act than any thing which he had yet seen brought before a legislative body. Suppose the committee should go into the investigation, and much evidence should be adduced, though not sufficient to convict, (he hoped the honorable Speaker would be acquitted at any rate), what a dilemma would the House be in! There was another point; if the report of the committee should be unfavorable to the gentleman from Pennsylvania, and a suit at law should hereafter be instituted against him on the same account, that report might have great weight to his prejudice.

Mr. TATTNALL demanded that, on the question of commitment, the yeas and nays should be recorded.—They were ordered accordingly.

Mr. INGHAM, of Pennsylvania, then observed, that he hoped, although the hour was late, that the House would indulge him in a brief expression of his views on the subject before them. When that subject was first presented, it struck his mind that the investigation ought to be ordered, and his first impression was, that he should vote for the appointment of a committee, and against all attempts to resist the inquiry. But, during the course of the debate to-day, he had reflected more maturely, as he had endeavored also to do during the past night, and he now felt satisfied that this question involved much higher considerations than an ordinary question of inquiry. What was the question now before the House? Was it an issue joined between two members, the consequence of which must necessarily be the prostration of one of them? That, he apprehended was not the case. The question had been represented, on all sides, as a question of privilege. The privilege of the Speaker had been invaded, and the House was called upon to punish the offender. He thought that, as the inflicting of such punishment was an exercise of the highest privilege possessed by the House, it ought ever to be done with the utmost caution and care. He had had the honor to be present, some years ago, when the nature of this prerogative underwent a full and solemn discussion, and he well remembered, that it was then determined, that the power of the House to punish was a power which had no limits; that it was a constructive power, springing out of the necessary organization of the House, and essential to its self-preserva-

tion. It extended even to death, if that were necessary, and, in the exercise of such a prerogative, was that House about to act as on an ordinary case of inquiry? It was a question of the very highest importance. On the occasion to which he had alluded, although there was no doubt respecting the breach of privilege, yet the question, with regard to its punishment, was discussed for a week, and at length decided in the affirmative by a small majority. Now, supposing the latter question has been ten thousand times as bad as it had been represented to be, it was no matter: the question was, Shall a mere newspaper article call into solemn exercise the highest power which belongs to this House? Why must this be done? It is answered, because the letter has been traced to a member of this House; but may you not, on this principle, follow up all the printers throughout the U. States? Is there any earthly difference between a newspaper article written by a member of this House, and such an article written by any other person? Did a gentleman, by becoming a member of this House, deprive himself of the ordinary privileges which he would have had, had he remained out of the House? Might he not write to his constituents the same as other gentlemen wrote to their friends? Surely he might. And if this House is obliged to investigate and punish a letter which comes from a member, it is bound to do the same if the letter come from any other member of the community. The power to punish for contempt was the most tyrannical in its nature, of any of the powers incident to Government. It is given by the constitution to the Judiciary as well as to the Legislature; yet, in many of the States, the Legislature has circumscribed the power of the courts, in punishing, to their own walls; and, in the discussion to which he before alluded, and which took place in this House, the same rule was contended to apply to the Legislature.—It was ably and very strenuously argued, that even this House had no authority to punish a contempt beyond the limits of its own Hall. Shall we, asked Mr. I. constitute ourselves into an inquisitorial tribunal to try and punish a breach of privilege merely about a letter to a printer? Sir, this House is now about to establish a principle more obnoxious to freedom than any I have heard broached in the worst of times.

How is this subject brought before us? Shortly after the letter to the printer, in Philadelphia, a card appeared in the newspapers in this city which contained a menace against the author of that letter, whoever he might be. This made the matter a personal contest; and, if it was calculated to have any influence on the member, that influence was to intimidate him. The practical effect of which would have been—to stifle public and free discussion of the conduct of a public man, because, in all such discussions, it is extremely difficult to separate truth from falsehood. It is said, the letter has been avowed. Sir, it has been said, with equal truth, that the avowal has been “extorted;” and thus the name of the author has come into the possession of this House. An appeal is made from the public and ordinary tribunal to this House. Is it competent for us to sustain the jurisdiction? The laws of the press do not prevent an avowal of the name of the author of a publication. Shall this House virtually prevent it? Prevent it by punishing it? Shall we erect it into an inquisitorial tribunal—into a summary court to punish for breach of privilege? Aye, sir, for breach of privilege!

What are the respective conditions of the two individuals concerned? The one occupies a lofty station—he is placed high before the view of the country—he possesses the just confidence of the members of this House—the *esprit du corps* concentrates itself upon his person—he exercises high powers of patronage in this House; (God forbid that I should say he exercises them in an improper manner.) All these things create a great difference between him and the member who has accused

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him. This, surely, is not the place to seek an impartial decision of the differences between them. We all know there is already a great excitement existing, and that it is increasing every moment like the rapidity of a descending body. Shall we be called upon now to act upon such an inquiry? I trust not; I trust we shall pause before we go into an investigation which connects itself with such high and such peculiar considerations. Apart from these, I will view the inquiry as a matter of no importance, nor do I concern myself with it. But, surely, sir, it would present a most extraordinary spectacle, to see every member of this House called in succession, before the committee, to testify concerning all the communications which he has heard in relation to the matters referred to in the letter of the member from Pennsylvania. Aye, sir, it would be a singular spectacle. The testimony that was collected would make a book; and a book that would be read through every part of these United States. It would contain many conversations calculated to excite the public curiosity to a very high degree. I do not mean jocular conversations about the lobbies of this House, where three or four have been conversing together, but I refer to close *tele-tete* interviews, where only two have been present.

Sir, I mean not to insinuate that any thing improper has been done or said in these interviews, but this is not my objection to the inquiry; it is of a higher character; it involves principles connected with the best interests of this nation, and if an attempt were made to arraign me for a contempt committed by writing a letter to my constituents, or any where else, I would not answer—I would stand mute, and deny, and defy your power. You might imprison me, and manacle me with chains. But you should never compel me to become a voluntary instrument to violate the constitution in my person. The liberty of the press shall not be violated through any compliance of mine. When these high privileges are put at stake, the sufferings, the life, of an individual are nothing. For these reasons I shall vote against the appointment of a committee. If the inquiry affected nothing but the mere question between these two individuals, I should vote a committee at once; but, because it involves all that I hold most dear, I shall resist the appointment, so far as my vote will go.

Mr. FORSYTH said that, as the author of the proposition now before the House, he was anxious that the grounds on which he offered it should be understood. The gentleman had said that this proposition had been universally treated as a proposition touching the privileges of the House. I, (said Mr. F.) do not support it on that ground. It is not a question of privilege, nor is it a question that touches, in any manner, the right of any individual to publish any thing he pleases. It is a question touching the purity of conduct of the members of this House, in a case in which they can be punished by this House, if guilty, or vindicated, if innocent. It is immaterial how the matter may have come before us.—If the humblest individual in the community were to present a memorial stating facts, which, if true, would justify the interposition of this House, I would vote for an inquiry into them. If the member who is the author of this communication had stated facts to the House, and demanded an investigation, who would have refused it? Is it merely because the request for it comes from the Speaker of this House, that it is to be refused? The charge is here, and the person charged demands an inquiry. The person who makes the charge is present, asks an investigation, and says he can prove his allegations. Under these circumstances, it appears to me to be a matter of necessity to institute the inquiry. A few years ago, an inquiry was instituted, of a similar nature to this, on the mere suggestion of a member. A member was accused of making a contract, whilst in office, and, on the mere motion of a member of the House, the fact was investigated by a committee, and a report made

It was but the year before last, the printers to this House stated, that their official conduct had been implicated, and a committee was appointed to investigate the charge against them, and make a report upon the subject. This committee was raised almost without objection. Whether we regard our own character, said Mr. F. or any other consideration, this appears to me to be the only course we have to pursue.

Mr. INGHAM rose in reply. He did not conclude that the gentleman from Georgia had put the inquiry simply on the ground of privilege. He placed it on the ground of the licentiousness of the press, and maintained that it was necessary to correct that licentiousness by the interference of this House. A principle certainly very nearly allied to the other. There is another ground of objection, of which it was fit that some member from Pennsylvania should take notice. The Speaker, in his communication, says, that he shall take no other notice of the accusation than that which he has done, *because of the source from which it proceeds*. He did not know whether he was to understand the Speaker as alluding, by those words, to the state from which the member came, or to the member himself. The expression was equivocal; but, whether he meant the one or the other, Mr. I. said he should consider himself as delinquent in his duty, if he did not notice and repel a statement of that kind. By the constitution of the country, every portion of the American people is alike represented by members on this floor. And it would be unfortunate, indeed, if the House were called on to compare, and to contrast, the respective claims of different members to different degrees of consideration. He would not contrast the claims of the Speaker and his colleagues to consideration, either in their political or any other character—such a contrast ought, of all things, the most to be avoided. And he would confess, that those words of the Hon. Speaker had excited in his breast some sensibility, both as to the honor of his state, and to that of the members of her delegation. And he considered it due to the character of the state he had the honor, in part, to represent, to deny the right of any member to assume such a position in this House.

Mr. FOOT, of Conn. said that certain papers were referred to in the motion of the gentleman from Georgia, (Mr. FORSYTH), which were not before the House; and he suggested to the gentleman the propriety of so modifying his motion as to refer to the committee nothing more than the communication of the Speaker.

Mr. FORSYTH accepted the modification, and, at the requisition of a member, reduced his motion to the following form:

*Resolved*, That the communication made by the Speaker to the House, and entered on the Journal of the House, be referred to a select committee."

Mr. BUCHANAN, of Pa. now moved that the House adjourn.

The motion was negatived.

Mr. M'DUFFIE then moved to amend the motion of Mr. FORSYTH, by adding to it the following clause:

"And that the said committee be instructed to inquire whether the friends of Mr. CLAY have 'hinted that they would fight for those who would pay best,' or any thing to that effect, and whether 'overtures were said to have been made by the friends of ADAMS to the friends of CLAY, offering him the appointment of Secretary of State for his aid to elect ADAMS,' and whether 'the friends of CLAY gave this information to the friends of JACKSON, and hinted that, if the friends of JACKSON would offer the same price, they would close with them,' and whether 'HENRY CLAY has transferred, or resolved to transfer, his interest to JOHN Q. ADAMS,' and whether 'it was said and believed that, as a consideration for this abandonment of duty to his constituents, CLAY was to be appointed Secretary of State,' and that the said committee be authorized to send for persons and papers, and to



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compel the persons so sent for to answer all questions, touching the subject referred, upon oath."

Mr. M'DUFFIE said, his objection to the inquiry was for essential reasons. But, if the House determined to have an investigation, he hoped some points would be prescribed to which the attention of the committee should be exclusively directed. It was said, that certain charges were made, by a certain letter. If they were contained within the words of the letter, he wished that the words themselves should be recited. With regard to the last part of his amendment, it would be an unpleasant investigation; but, if it did take place, the character of the parties could not be exonerated in any other manner than by the examination, upon oath, of all persons who could give information on the subject.

Mr. RANDOLPH, of Virginia, then rose. Of the proceedings of this body, said he, I have been, I will not say a patient, but a most reluctant spectator. I believe, sir, that the principles of the institutions of this country are sufficiently discredited abroad to render it unnecessary, even for their enemies, to discredit them at home. What then shall we say to our friends? I cannot, as one of the oldest members of this body, any longer restrain myself from asking, to what we are about to reduce ourselves in the estimation not only of the public, but in our own. Are we, the Congress of the United States—are we sitting here to deliberate on great national and federal concerns, or are we reduced to the situation of a Parish Vestry, of a Board of Overseers of the Poor, or of a court to settle — Sir, I do not wish to enter into that question. I have kept myself aloof from this thing; but I beg the House to consider what they may be about to do. If I misapprehend or misinterpret, I ask pardon—it is the result of my infirmity—but, if I do understand the proposition before us, it is, that this House shall do that which it would be derogatory to an individual to do—that which is not of sufficient dignity for an individual to touch, is the matter relegated to this body. Sir, I cannot consent to reduce the House to such a condition. But I rose not to enter into the discussion, but to move what I think ought instantly to be done—that this proposition, with its amendments, accessories, and principals, should be indefinitely postponed. I make that motion.

Mr. FORSYTH said he scarcely knew in what terms to answer the argument of the gentleman from Virginia. It would seem that he considered the proposition derogatory to the character of the House, and of the representative body. This, said Mr. F. appears to me to be a strange conception. The proposition goes to institute an inquiry into the purity of a member of this House, who, it is charged, has in his pocket a promise of a place of profit and honor, if he gives his vote on the Presidential election, in a certain way. Is this not derogatory to the character of the House? Ought its truth or falsehood not to be ascertained? Are we to stand by and see the individuals charged execute the act, on the fulfillment of which the purchase money is to be paid? I have a very different idea, sir, of what becomes the character of the House of Representatives of the United States. They have great duties of legislation, it is true; but they have great duties, also, as regards the purity of their own characters, and it is proper that their characters should be understood. I ask the honorable gentleman from Virginia, if he were charged by a member of this House, of having paltered with his duty—with having made a corrupt bargain, whether he would not demand an inquiry—whether this House would not ring with his cry for justice? And, if an inquiry is in such a case as this refused, to what condition is a member of this House reduced? You refer him back to a state of nature, and say to him, go and do justice to yourself upon your accuser. And will he not? One of the immediate effects of such a refusal would be personal contests in your lobbies—from that we should come to personal

contests in the House: and, if we were saved from the disgrace of this, with coldness and deliberation members would depart from their seats to seek each other's lives elsewhere. I have known the interposition of this House invoked to prevent the settlement of disputes out of it. These things have been done; I do not defend them, nor justify them. When members are in this Hall charged with crimes, in this Hall the charges ought to be investigated, whether the charges are made in debate or otherwise—whether orally or in writing. And have we not the power to investigate them? Why was the power of expulsion given to us, if it was supposed there never could occur a case in which it could be exercised? The constitution supposes that members may be guilty of offences which would require them to be dragged from this place with disgrace and dishonor. If an individual were proved to have received a bribe for his vote, the Senate has decided that members of Congress are not officers of the Government within the meaning of the constitution, and are therefore not impeachable. Where, then, can punishment be inflicted on such offenders, but here? Here, and here alone, it ought to be inflicted. Whenever such a case occurs, I hope it will be inflicted. Here, I venture to say, *it will be*, and, if it be not, this branch of the National Legislature is irretrievably disgraced.

Mr. RANDOLPH said, that he must be permitted to add, that it was under the view of an express disclaimer of any such results as the gentleman had alluded to, that he had spoken.

The SPEAKER pronounced the motion of the gentleman from Virginia, indefinitely to postpone, not to be in order while an amendment was pending.

Mr. M'DUFFIE now withdrew his amendment for a time, in order that the question might be taken on the motion for indefinite postponement.

Mr. INGHAM, of Pennsylvania, demanded that that question should be taken by yeas and nays.

The question on indefinite postponement was then taken by yeas and nays, as follows:

YEAS.—Messrs. Alexander, of Va., Alexander, of Tenn., Allen, of Tenn., Allison, Archer, Baylies, J. S. Barbour, Bartlett, Blair, Brown, Buchanan, Buck, Cady, Cambreleng, Carter, Carey, Clark, Collins, Day, Dwinell, Edwards, of N. C., Ellis, Farrell, Findlay, Floyd, Foote, of N. Y., Frost, Govan, Hamilton, Harris, Hayward, Hogeboom, Holcombe, Hooks, Houston, Ingham, Johnson, of Va., Lincoln, Litchfield, Livingston, M'Duffie, M'Kean, M'Kee, Miller, Mitchell, of Penn., Moore, of Alab., Morgan, Outlaw, Owen, Patterson, of Penn., Plumer, of Penn., Poinsett, Randolph, Rankin, Richards, Ross, Sanford, Arthur Smith, Alexander Smyth, Wm. Smith, Spaight, Standefer, Sterling, Tattall, Ten Eyck, Thompson, of Penn., Thompson, of Geo., Udree, Wayne, Whitman, Williams, of N. C., James Wilson, Henry Wilson, Wilson, of S. C., Wilson, of Ohio, Wolfe, Wood—77.

NAYS.—Messrs. Abbot, Adams, Allen, of Mass., Bailey, Barber, of Conn. P. P. Barbour, Bartley, Bassett, Beecher, Bradley, Breck, Brent, Buckner, Burleigh, Call, Campbell, of S. C. Campbell, of Ohio, Cassedy, Cocke, Condict, Conner, Cook, Crafts, Craig, Crowninshield, Culpeper, Cushman, Durfee, Dwight, Eddy, Foot, of Conn. Forsyth, Forward, Fuller, Garrison, Gatlin, Gist, Gurley, Hall, Harvey, Hayden, Hemphill, Henry, Herrick, Herkimer, Hobart, Isaacs, Jenkins, Jennings, J. T. Johnson, F. Johnson, Kent, Kidder, Lathrop, Lawrence, Lee, Leftwich, Letcher, Little, Livermore, Locke, Long, Longfellow, M'Arthur, M'Coy, M'Kim, M'Lane, of Del., M'Lean, of Ohio, Mangum, Mallary, Markley, Martindale, Marvin, Matlack, Matson Mercer, Metcalfe, Mitchell, of Md., Moore, of Ken., Neale, Nelson, Newton, O'Brien, Olin, Patterson, of Ohio, Plumer, of N. H. Reed, Reynolds, Rives, Rose, Saunders, Scott, Sharpe, Sibley, Sloane, Spence, A. Stevenson,

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J. Stephenson, Stoddard, Storrs, Strong, Swan, Taliaferro, Taylor, Test, Thompson, of Ken., Tomlinson, Tracy, Trimble, Tucker, of Va., Tucker, of S. C., Tyson, Vance, of N. C. Vance, of Ohio, Van Rensselaer, Van Wyck, Vinton, Warfield, Webster, Whipple, Whittlesey, White, Wickliffe, Williams, of N. Y. Williams, of Va., Woods, Wright—127.

Mr. M'DUFFIE now renewed his motion to amend the resolve in manner above stated.

The question was loudly called for, when Mr. McDUFFIE, who was on the floor, said—Sir, I'll speak to the question. The feelings which I now have, it would not become me here to express. I will utter a few remarks in illustration of the amendment which I have offered, and I shall utter them, let the question be called for as loudly and as often as it may. I am not to be put down by the cry of "question! question!" Sir, this is a high-handed measure, and the object of my amendment is, to accord to the individual, who (and not the Speaker of the House) is the real object of that measure, the poor right which belongs to every individual, when he is to be tried. I was opposed to going into this committee, but, if we must investigate the charge against the member from Pennsylvania, let us try him on the very words which he used. It is an important right of every accused man that the charge on which he is to be tried shall be specifically set forth, and that he shall not respond for any acts, but for those which he has committed. It has again and again been said, that the letter charges corruption. Sir, notwithstanding the glaze and color put upon it, the letter charges no such thing. There are the charges embodied in this amendment. As this is nothing more nor less than indictment for libel, I have pursued the common law terms. There is the issue made up, not a vague and indefinite charge, but the very issue he himself presented. Sir, I regret the investigation, but, if it must take place, let it be in proper form. Let me add one word to the friends of Mr. CLAY on this floor, (and there are no members on this floor, for whom, generally, I feel more respect.) I have been informed that some of his friends suppose that the amendment I have offered contains something which is intended to bear harshly upon them. Not so: not so. My object is merely to confine the charges made against the honorable Speaker to the very words of the letter of the gentleman from Pennsylvania.

Mr. MALLARY, of Vermont, rose, only to make a single remark. The House would see at once that the amendment now proposed was inconsistent with the communication made by the Speaker. The Speaker says, that direct charges of corruption have been made, and the question is, whether they have been made, and, if they have, whether they are true? But the amendment includes the friends of the Speaker, and charges on rumor merely. Mr. CLAY does not contend, in his communication, for the vindication of his friends, but only for his own personal vindication. The amendment, therefore, is irrelevant to the subject matter of inquiry.

Mr. ELLIS, of Pennsylvania, now moved an adjournment, which was negatived. Ayes 79, Noes 105.

Mr. COOK, of Illinois, said, that he rose, not to utter one word about the amendment, but merely to express a hope, which he trusted was not without foundation, that, if the House would adjourn, the meaning and intention of the letter of the gentleman from Pennsylvania, would, when it sat again, be so explained and presented to the House that it could, without difficulty, be acted upon. If the letter referred to a mere general report, the case certainly was not one on which the House was called to act, but he indulged a hope that the gentleman from Pennsylvania would distinctly explain what he did mean in that letter, and whether he meant any thing beyond mere report or not. With this hope, he moved that the House do now adjourn. The

question on adjournment was then again taken, and decided in the negative. Ayes 83—Noes 104.

Mr. FORSYTH then said that he was obliged to say something on account of what had fallen from the gentleman from South Carolina, (Mr. M'DUFFIE) If he had understood the gentleman right, he had called the present a high-handed measure, and had said that its object was the oppression of a member of this House. If he had misunderstood the gentleman, he hoped he should be corrected.

Mr. M'DUFFIE replied, that he did not recollect the words he had used: they would speak for themselves. He meant whatever his words imported.

Mr. FORSYTH resumed. He was then to understand the gentleman as meaning to say, that this was a high-handed measure, and intended to bear down a member of the House. So far as I have any thing to do with it, I take leave to say, that such an assertion is without foundation. I have expressed no opinion whatever between the parties, and had merely moved a reference of the communication, that the committee might decide whether the subject should be further investigated or not.

The question was then put on Mr. M'DUFFIE'S amendment, and negatived by a large majority.

The question then recurring on the original motion of Mr. FORSYTH, as above stated, in writing, it was decided in the affirmative, by yeas and nays, as follows:

YEAS.—Messrs. Abbot, Adams, Bailey, Baylies, Barber, of Conn., P. P. Barbour, Bartley, Bussett, Beecher, Bradley, Breck, Brent, Buckner, Burleigh, Call, Campbell, of S. C., Campbell, of Ohio, Casedy, Cocke, Condict, Conner, Cook, Crafts, Craig, Crowninshield, Culpeper, Cushman, Duffee, Dwight, Eddy, Foot, of Conn., Forsyth, Forward, Fuller, Garrison, Gatlin, Gist, Gurney, Hall, Harvey, Hayden, Hemphill, Henry, Herrick, Herkimer, Hobart, Isacks, Jenkins, Jennings, Johnson, of Va., J. T. Johnson, F. Johnson, Kent, Kidder, Lathrop, Lawrence, Lee, Leftwich, Letcher, Little, Livermore, Locke, Long, Longfellow, M'Arthur, M'Coy, M'Kim, M'Lane, of Del., M'Lean, of Ohio, Mangum, Mallary, Markley, Martindale, Marvin, Matlack, Matson, Mercer, Metcalfe, Mitchell, of Md., Moore, of Ken., Neale, Nelson, Newton, O'Brien, Olin, Patterson of Ohio, Plumer, of N. H., Reed, Reynolds, Rives, Rose, Saunders, Scott, Sharpe, Sloane, Spence, A. Stevenson, J. Stephenson, Storrs, Swan, Taliaferro, Taylor, Test, Thompson, of Penn., Thompson, of Ken., Tomlinson, Tracy, Trimble, Tucker, of Va., Tucker, of S. C., Vance, of N. C., Vance, of Ohio, Van Rensselaer, Van Wyck, Vinton, Warfield, Webster, Whipple, Whittlesey, White, Wickliffe, Williams, of N. Y., Williams, of Va., Woods, Wright—125.

NAYS.—Messrs. Alexander, of Va., Alexander, of Tenn., Allen, of Tenn., Allison, Archer, J. S. Barbour, Bartlett, Blair, Brown, Buchanan, Buck, Cady, Cambreleng, Carter, Carey, Clark, Collins, Day, Dwinell, Edwards, of N. C., Ellis, Farrelly, Findlay, Floyd, Foote, of N. Y., Gazlay, Govan, Hamilton, Harris, Hayward, Holcombe, Hooks, Houston, Ingham, Lincoln, Litchfield, M'Duffie, M'Kean, M'Kee, Miller, Mitchell, of Penn., Moore, of Ala., Outlaw, Owen, Patterson, of Penn., Plumer, of Penn., Poinsett, Randolph, Rankin, Richards, Ross, Sandford, Arthur Smith, William Smith, Spaight, Standefer, Sterling, Tattnall, Ten Eyck, Thompson, of Geo., Wayne, Whitman, Williams, of N. C., James Wilson, Henry Wilson, Wilson, of S. C. Wilson, of Ohio, Wolfe, Wood—69.

So Mr. FORSYTH'S motion was carried.

Mr. FORSYTH moved that the Committee be appointed by ballot, which was agreed to:

[Messrs. P. P. BARBOUR, WEBSTER, M'LANE, TAYLOR, FORSYTH, SAUNDERS, and RANKIN, were appointed on the next day.]

H. of R. & Sen.] *Chesapeake and Ohio Canal—Yazoo Claims—Piracy, etc.* [FEB. 5, 7, 1825.]

HOUSE OF REPRESENTATIVES.—SATURDAY, FEB. 5.  
CHESAPEAKE AND OHIO CANAL.

Mr. MERCER moved to take up the bill confirming the Act of the Legislature of Maryland, which confirms that of the General Assembly of Virginia, respecting the Chesapeake and Ohio Canal Company. The motion was opposed by Mr. COCKE, but carried. The bill was taken up and read.

Mr. MERCER then moved that it be ordered to be engrossed for a third reading on Monday next.

Mr. COCKE opposed the motion, on the ground that the House was not prepared to pass the bill; that they had no sufficient information respecting it; and that it was likely, in its result, to involve the expenditure of large sums of money. He moved that it take the usual course, by being referred to a committee of the whole.

Mr. MERCER replied—explained the nature of the bill—showed that it involved no appropriation of money whatever—but merely provided for the incorporation of a company. He showed the necessity of passing the bill at as early a moment as possible, because, as the incorporation required the consent of the Legislature of Pennsylvania, and that Legislature was now in session, and would soon adjourn, if the present moment were lost, the useful undertaking which was the design of the company, must be postponed a whole year. The Legislatures of Maryland and Virginia had given their assent already; and his sole object in pressing the bill now, was to get it before the Legislature of Pennsylvania at as early a time as possible, &c.

Mr. COCKE having read the bill, (a copy of which lay on the members' tables,) admitted that it made no direct appropriation of money; but contended that it would lead to measures which must involve great expense. He wanted further information—wished to see a copy of the act proposed to be confirmed, &c.

Mr. MERCER again explained the nature and objects of the bill, when, the question being about to be put, on a reference to the committee of the whole—

Mr. STEWART moved that the bill, for the present, lie on the table; which motion was carried.

IN SENATE—MONDAY, FEBRUARY 7, 1825.

YAZOO CLAIMS.

The Senate resumed the consideration of the report of the Committee on the Judiciary, unfavorable to the petition of Ebenezer Oliver and others, together with the motion to strike out of the resolution accompanying, the word "not," so as to reverse the report. The debate on this subject was resumed, and continued during the whole of this day's sitting.

Mr. VAN BUREN spoke at great length against the claims of the petitioners, grounding his objections on these points: That this question had been once decided by a competent tribunal, established at the instance of the parties seeking relief; that it was against the policy of the government, and against the public interest, to open these proceedings, and, if they were opened, there was nothing in these claims founded either in justice or equity.

Mr. KELLY, Mr. SEYMOUR, and Mr. MILLS, each spoke at considerable length in reply to Mr. VAN BUREN, and in favor of the claim of the petitioners; after which, the Senate adjourned.

HOUSE OF REPRESENTATIVES.—SAME DAY.

Mr. POINSETT, of South Carolina, offered the following resolution:

"Resolved, That an immediate representation ought to be made to the Captain General of Cuba, setting forth the losses and injuries inflicted upon the property and persons of the citizens of the United States, by pirates, issuing from that island, and returning thither with their

plunder, and a demand upon him to cause immediate measures to be taken for the punishment of these marauders, and for the prevention of future atrocities by them.

"Resolved, That, if the Captain General should refuse or delay to adopt such measures, the President of the United States ought to concert with the maritime powers, interested in the commerce of the West Indies, efficient means of extirpating the pirates that infest those seas."

Mr. POINSETT observed, that he was induced to offer these resolutions, in order to bring to the view of the House, what he believed to be the only effectual means to suppress piracy in the West India seas. It is sufficiently apparent, said Mr. P. from all the accounts we have received of the atrocities committed by the pirates of Cuba, that the authorities of that island have not as yet taken any measures to check them. From long impunity, the pirates have become very numerous—not less, in his opinion, than 60 or 70,000 persons being engaged in that nefarious trade. They have organized themselves into a society under the name of *Muselmans* (Muselmen,) known to each other by signs, as Free Masons are, and governed by rules and regulations well calculated to screen each other from the pursuit of justice. They are protected by magistrates and officers of government, who profit by their plunder, and they are encouraged by merchants, who purchase their goods at a low price. It is to be presumed, that the authorities of the island dare not molest them, for they are to be seen openly walking the streets of Havana and Matanzas—nay, the entire population of Regla, a town in the Bay of Havana, is composed of pirates. Such is the insolence of these men, that the chiefs, who are perfectly well known, and who pass by fictitious names, frequently issue proclamations, threatening the officers of government with their vengeance if they should dare to take any measures against them. And such is the awe in which those officers stand of the pirates, that when Lieutenant Gregory anchored the U. S. schooner *Grampus* in the harbor of Matanzas, and by exercising great vigilance, prevented these miscreants from issuing forth to plunder and destroy, he was earnestly and repeatedly urged by the Governor of that place to depart, declaring that his longer continuance there might cause an insurrection. The local authorities of the island appear, then, not to have the power of punishing the pirates, even if they had the inclination to do so. But, if the Captain General of Cuba does not possess the means of preventing the commission of further atrocities by these monsters in human shape, let him say so—let us know the fact, that we may adopt other and more effectual measures to protect the property and persons of our citizens.

The evil, said Mr. P. has arrived at such a height, that it has become the indispensable duty of this government to check it. It is not to be borne, that Pirates should openly fit out expeditions against the peaceful commerce of the world, from an island in the immediate vicinity of the United States, and that, after burning our vessels and murdering our citizens, they should be allowed to return thither with their plunder, and sell it in the principal cities, under the eye of the public authorities of that island. It is not to be tolerated, that these Pirates should be protected by Magistrates and officers of Government, who profit by their plunder, or be encouraged by the Spaniards in the Island, in order to gratify their revenge: for they regard us with deadly hatred, on account of the course we have thought proper to pursue, in relation to the contest between Spain and her former Colonies.

It may, possibly, said Mr. P. be objected to the first resolution, that this government ought not to treat directly with the Captain General of Cuba, whose authority is delegated by Spain. Mr. P. disclaimed any in-

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## Suppression of Piracy.

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tention, at the present moment, of going into an argument to show, that Spain exercises only nominal jurisdiction over Cuba; but, if the House would indulge him by referring them to a committee, he pledged himself to prove that Spain does not, nor has not for many years past, exercised complete jurisdiction over that Island. He would mention only one fact. In the autumn of 1822, an English squadron anchored in the port of Havana, bringing an order to the Captain General to co-operate with the British force in suppressing piracy.—After a long delay, the Captain General informed the British commander that he could not comply with the order, as he had no disposable force. At that time there were three corvettes, a gun brig, and four schooners, in the port of Havana, armed and equipped, and ready for sea, and 5,000 men in garrison.

A single remark, sir, in relation to the second resolution. After long and anxious reflection on this subject, Mr. P. said, he had brought his mind to the most perfect conviction, that there is but one remedy for this enormous evil; and that is, the establishment of a different government in the Island of Cuba. If the power were lodged in the hands of the Creoles, of the *Americans* of Cuba, my life for it, you would hear no more of the piracies of that Island, than of piracies being committed along the coast of the United States. There are many reasons why this government cannot take any measures having that tendency, without exciting the jealousy and fears of other powers. Whatever is done ought to be done in concert with them. He was aware that, by a proper application of our naval means, the pirates may be held in check, and our commerce be protected.—But, sir, a measure of this sort, to be continued for any length of time, will be attended with great waste of life in that fatal climate. In order to give the House some idea of the incessant vigilance this service requires, he would state, very briefly, the manner of conducting these piratical expeditions. A coasting vessel leaves the harbor of Havana or Matanzas, having on board not more than four or five men, and, by that means, eludes suspicion. On the coast she receives her complement of men, who put off in small boats and canoes. They require no other arms than those they carry always about them. The dagger is the only arm of the pirate. Thus equipped, they attack the first American, English, or French vessel they meet—take possession of her, take out the goods, and scuttle or set fire to her, after murdering her crew. The pirates then return to the shore in their boats, and instantly proceed to Havana and Matanzas, where notice of the prize is given to the merchants—vessels are immediately cleared out coastwise, with a *guia*, or permit, specifying the articles taken—they proceed to that part of the coast where the pirates have their hiding places, receive the goods on board, and proceed on their voyage. This is done with the connivance of some of the officers of the customs at both ports—the goods are transferred to the shops, and are publicly sold. All this may be prevented by the steady employment of a large naval force, and with the exertion of great vigilance and activity on the part of the officers engaged in that service. But the instant our squadrons are withdrawn, the piracies will be renewed. He would not detain the House any longer at this time. He hoped when the Presidential election was over, time would be accorded to act on this most important subject. He was induced most earnestly to desire it, from an account he

had seen yesterday, published in a Charleston paper, of the murder of the crew of a vessel, that had been wrecked on the Keys, near Matanzas.\* They had escaped a watery grave, and, when within reach of what ought to have been a friendly shore, they were overtaken by pirates, who, without any hope of plunder, murdered these men in cold blood, to wreak their vengeance on the enemies of Spain.

In speaking of these atrocities, it ought to be understood, that the Creoles, the *Americans* of the Island of Cuba, have nothing to do with them. Their hands are not stained with the blood of our citizens. They are not polluted with the bribes of pirates. They derive no profit from this most infamous traffic.

Mr. P. moved to refer the resolutions to the same committee to which had been referred a bill from the Committee on Naval Affairs for the Suppression of Piracy.

Mr. FORSYTH remarked, that the resolutions submitted by the gentleman from South Carolina, (Mr. POINSETT,) referred to a subject respecting which this House, as long ago as the 20th of December last, had called on the President of the United States to communicate, so far as might be consistent with the public good, the correspondence which had been held with Spain, and with the Governors of the Spanish possessions in America. No answer to this call had yet been laid before the House. It was, therefore, useless, he had almost said idle, to make a reference of these resolutions, until that answer should be received. The first resolution recommends to the House to say to the Chief Magistrate, You ought to hold a communication with the Governor of Cuba. Why, sir, is it possible that any man in his sober senses can suppose that the Executive can have been so lost to all sense of duty as not to have made this communication long ago? The documents which are already before us, (said Mr. FORSYTH,) are sufficient to refute such an idea. They shew, conclusively, that some correspondence has been held with the Governor of Cuba. Sir, I object to the resolutions, for another reason. They go on the principle, that, by a correspondence with the Governor of Cuba, you can make Spain or the Spanish dominions, accountable.—This is not correct. The Governor can only answer that correspondence, according to the subordinate authority he possesses, and the result will be, that he will refer to the Spanish Government. Let me, on this subject, put a case to the gentleman from South Carolina. Suppose a foreign power—

At this point, Mr. FORSYTH was interrupted by the Speaker, who pronounced that the discussion was, in the present stage of the business, not in order.

Mr. FORSYTH then moved that the resolutions lie on the table; which was agreed to, and they were ordered to be printed.

Mr. R. H. WILDE, a member elect from Georgia, appeared, was sworn, and took his seat.

## ELECTION OF PRESIDENT.

On motion of Mr. WRIGHT, the House then went into committee of the whole on the state of the Union, Mr. TAYLOR, of New York, in the chair, and resumed the consideration of the rules (reported by a committee) to be observed by the House in conducting the election of the President.

And, the question being on striking out the last clause

\* Extract of a letter from Matanzas, dated 13th January.

"We have accounts here of a horrid deed being committed by the Pirates. It appears that the brig BETSEY, Hilton, from Wisconsin, for Matanzas, was wrecked on the Double Headed Shot Keys, about 10 days ago. The Captain and crew fortunately saved their lives by landing on one of the Keys. They had got as far as Santa Cruz in a fishing boat, when they were fallen in with by a piratical boat, and all murdered, excepting one man, who fortunately was knocked overboard, and reached the shore. It is reported the piratical boat and crew were afterwards captured by a British vessel of war. There is much excitement here on the subject."

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of the third rule, which provides that the galleries may be cleared at the request of the delegation of any one state—

Mr. MANGUM said, that, when the committee rose the other day, as he presumed for his personal accommodation, he had well nigh concluded the remarks which it was his intention to submit on this subject.—He felt deeply sensible of the polite attention of the committee, and the best return in his power to make for their kindness was to refrain from trespassing again too far on their patience.

This subject having already occupied a disproportionate space of the time of this House, he should not again take up the argument, but only submit a few general observations, which he had designed to offer on the former occasion. He knew full well the immense advantages which gentlemen have when they address themselves not to the understanding and the judgment, but make ardent appeals to the prejudices and passions of the people. The people's rights, and the sovereignty of the people!—the very finest and most popular themes for declamation! He felt the great difficulty of being heard, coolly and dispassionately, at the bar of reason, at the moment when the passions are stimulated into tumult, and worked up to a pitch of phrenzy.

In this country, as we have seen from the foundation of the government, whenever a new party was about to organize itself, or a new faction to spring into existence, its very first breath was breathed in a holy and fervent *love for the people*; its ardor and its devotion to the public weal, transcended only by the purity and disinterestedness of motives. I confess, sir, that I have lived long enough to distrust these ardors. When I see the frosts of age dissolving under the warm glowings incident to youth, and the patriot of sixty entering the lists with the very flower and chivalry of the land, endeavoring to outstrip them in demonstrations of love and devotion to the people, I begin to look about me; for I fear mischief, or suspect treachery. I need not refer you only to our own history, but the history of other countries, and other ages, discloses the fact, that many of the bloodiest tyrants that ever disgraced humanity, began their career by fawning on the people, and sedulously and assiduously courting their favor.

It has been remarked by the gentleman from South Carolina, that all sovereign power resides in the people, and that every agent in authority must act in obedience to that will. The abstract proposition is evidently true; but the difficulty arises in the application of it to the case in hand. How is the will of the people to be ascertained? Is it to be derived from the county meetings, town meetings, publications, and rumors? Are we to resort to these loose, unsatisfactory, and contradictory indications of the public will? Or, shall we resort to the constitutional indication—to that expression which has been made through legitimate organs? If the latter, it is apparent that a large majority have voted against either of the candidates. What, then, is our duty? I would again answer, to select according to the best dictates of our understandings. And yet, says the gentleman, this doctrine is too strong for Revolutionary France, it would have been repudiated under the reign of Napoleon. Mr. M. said it was a little curious to remark the striking coincidence between the early professions of Bonaparte, and those with which we are now daily saluted. He could hope that a coincidence should never be made to exist in this country, in any other respect. For what was the sequel in the case of Napoleon? Though his first love was the love of the People, and though he bowed with the profoundest respect to their will, yet he flattered, he coaxed, and he courted them, until he placed his foot upon their necks, and crushed their liberties with the most frightful military despotism that the world ever saw.

This is the natural order of things in a free govern-

ment, to begin a jacobin and end a tyrant. We are told we must bow to the will of the people. I grant it. But I shall look for the indications of that will to a source which is unerring—to the constitutional indication of it. It is curious to remark how defective this *poor, tattered* constitution of ours is, according to gentlemen's notions of responsibility. They say we must vote with the people, (what people?) and yet the constitution guarantees to us the mode of voting by *ballot*, in the exercise of which, the vote of each delegation may be profoundly locked up in their own bosoms, and no human eye, not even the Argus eye of jealousy itself, can detect for whom that delegation voted. There are four states in the Union, represented, in this House, each, by one member. Those gentlemen, according to the rules established on a former occasion, and according to the rules reported on this, may hide their secret from all the world, if they choose. They have nothing to do but to make duplicate ballots, and drop one into each box, among twenty-three other votes, and how are their ballots to be known, to be identified? How does this comport with gentlemen's notions? How defective is the constitution according to their views! Instead of requiring members to vote in a manner to prevent the practice of fraud and deceit, that same constitution becomes "*particeps criminis*," by throwing the mantle over deeds of darkness and crime, by shielding them from exposure to the vengeance of disappointed ambition, or the scorn and hatred of a betrayed country.

There have been some politicians silly enough to imagine that the framers of the constitution looked afar off, and either dreamed or believed that occasions might arise when this provision would be found most salutary, that the safety of the republic might depend upon the ignorance of the tyrant where to direct his blows.

For myself, however, I hope, said Mr. M. that I may be permitted to say, that I hate mystery—I hate all concealments in the discharge of a public duty; and shall be one of the last to shrink from the severest scrutiny into the manner in which I may have discharged it. I would scorn the use of the mantle.

I advert to these considerations with a view of showing with how many difficulties this subject is beset, and how arduous would be the task of framing a theory, according to gentlemen's views, that would harmonize in its practical operations with constitutional provisions on the subject.

Sir, it seems to me that the true conception of the framers of the constitution is this: that the representatives in this House would come immediately from the people—they are part of the people—presumed to be men of some character, connected with the community from which they emanate by a thousand ties; character, respect, family, children, a common interest, a common destiny. In a word, identified with that community in habits, feelings, sentiments, &c.; and, that when the result, so much to be decreed, of the Presidential election being cast upon this House, shall happen, that all these ties and considerations form a sufficient guarantee that a wise, honest, and judicious selection will be made. This view, I think, said Mr. M. is conformable with the theory of the constitution.

What are the cotemporaneous expositions of the constitution on this subject? In the work entitled the *Federalist*—a work written by some of the ablest men who were in the convention, and which is resorted to by the ablest constitutional lawyers, as high and grave authority, I find the following opinion:

"But as a majority of votes might not always happen to centre in one man, and as it might be unsafe to permit less than a majority to be conclusive, it is provided, that in such case, the House of Representatives shall select out of the candidates, who shall have the five (now changed to 'three,') highest numbers of votes, *the man who, in their opinions, may be best qualified.*"



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And yet, it is said, that these doctrines would be odious in revolutionary France—they are too strong for the reign of Napoleon.

Such are some of the difficulties into which gentlemen are deluded and bewildered by an overweening attachment to their new-born theories—theories that have sprung into life from a brain highly excited by political contests—theories that are cherished with all the love that the mother bestows on her rickety bantling.

But, sir, if these theories may not be deduced from the letter of the constitution, may they not result from the *philosophy* of the constitution of which we have heard in this debate? Yes, sir, the *philosophy* of the constitution! That philosophy which, I fear, is to arm this great Government with that stupendous power which is to sink our state sovereignties into mere corporations—That power which has prostrated some of these barriers that the wise men of both the old parties recognized—That power which is incessantly, most fearfully, and alarmingly increasing. Yes, sir, the philosophy of the constitution! That philosophy which was reserved for the ingenuity and astuteness of modern times to discover; and of which that great and wise man, Patrick Henry—and a wise man he was—in all his awful vaticinations never dreamed of. Yes, sir, it is by courting these sovereign people sedulously and arduously, that all jacobins begin their career.

The people are sovereigns—but they are sovereigns in minority: they never have, nor will they ever come to the crown, whatever some of their flatterers may do—and yet they have in full enjoyment one of the brightest and most undoubted attributes of sovereignty—the *slavery of their courtiers*.

I trust I may say, and truly too, that I have as profound respect for the will of the people, fairly expressed, as any man; and would preserve those interests committed to my charge as I would the apple of my eye. I would not look to the shouts of the multitude for the opinions of the people, but I look to their opinion as fairly and constitutionally expressed. To this I respond, to this I am obedient.

I regret that I have detained the committee so long on this subject. As regards the question immediately under discussion, I would not turn upon my heel for a decision of it, either one way or the other.

Mr. J. S. HARBOUR, of Virginia, said, that a sense of duty made it necessary for him to offer to the committee a few remarks; and in doing so, he should but express an entire concurrence in opinion with the gentleman from North Carolina, (Mr. MANGUM,) that a new zeal had infused itself into our deliberations, resulting from the excitement at this moment pervading both this House and the country. He trusted that the fervor of this excitement would not warp the judgment of the committee, or divert it from the duty of calm inquiry, so imperatively enjoined on it. The first question presented to us I take to be this: Is it right to indulge the intense anxiety now felt by the public, in permitting an inspection of the proceedings of this House, when constitutionally employed in selecting a Chief Magistrate? The history of that country whose precedents have supplied most of the forms of our deliberations, discloses to us the existence of controversies between the parliament and the people, on questions of giving publicity to the transactions of the former. It was deemed, and accordingly punished, as a breach of privilege, to publish the speeches or votes of members, and that, too, on the ground that those proceedings were matter of which the public had no right to be conversant. At the period of forming our constitution these demands from the people, and their denial by the parliament of England, had made an appropriate impression in this country. To secure this right beyond the reach of cavil, and to supply the people with this safe-guard for the responsibility of their Representatives, claimed the attention of

the wise framers of our political fabric. To secure this right, it is provided that the people have a just claim to know what Congress is doing, and that a journal of their proceedings shall, from time to time, be published, together with the Yeas and Nays, upon the demand of one fifth of the members present. The usage of Congress supplies us with the best commentary upon this constitutional text. Its deliberations have been open to public inspection, with the exception of proceedings where high national considerations forbade immediate disclosure, and the precedent of 1801, which I think has been clearly demonstrated to merit but little attention. Is there any thing, then, in the duty now cast upon the House by the happening of the contingency provided for in the constitution, to distinguish it from ordinary acts of legislation, and to demand an unusual measure of safety or precaution. Can gentlemen imagine, for a moment, that our deliberations will be overawed? or, that any intimidation, whatever, will influence members in discharging this high function? It is a suspicion fraught with injustice to ourselves, as well as to the people. Throw over your acts the veil of mystery, and what is the result? All within is pure, and the members are engaged in the fearless fulfilment of the trusts reposed in them. Will it be so, sir, without? I apprehend not. Distrust will fill the public mind, and jealousy will fire its passions; and when these overtake us, it will be in vain for us to rely upon the conscious rectitude of our actions, and the dignity of silent deliberation, to shield us from disrespect, or the suspicion of ignoble conduct and unworthy motives. But I understand, from the argument of the gentleman from Delaware, (Mr. M'LAKE,) that, in making the selection, we act independently of the people, and, as a necessary deduction, that they have no right to witness it. I can never yield my assent to such a proposition. It has been successfully combated, I think, by the gentleman from South Carolina, (Mr. M'DUFFIE.) With his opinions in relation to the rights of the people over our ordinary legislation, I must also express my dissent. He informs us that the constitution has vested the legislative powers of the United States in Congress—and asks, "What are the ingredients of legislation? Argument, inquiry, and deliberation." Sir, when the gentleman presented so forcible an argument in another branch of this question, upon the influence of popular will, could he not suppose that this, too, would necessarily enter into our acts of legislation? If tyrants, as he clearly shewed, armed with power, are constrained to regard the will of the people, how much more forcibly should that argument apply to national legislation in a Government whose very basis is public sentiment? The will of the people is in this country, most especially, the main spring of all political institution. This, alone, can with us give impulse to permanent legislation.

I cannot agree with the gentleman from North Carolina, that the wise men who gave form to the constitution, are against me. The journals of that day reveal a singular incident relating to this question, which may seem to array against me a most distinguished authority. When the constitution was in progress, amid the jealousies of its enemies and the anxieties of its friends, numerous amendments were proposed by the several State conventions. Among these, Virginia sought to engraft upon it a provision, that would secure, at all times, the right to instruct Representatives. In the first Congress that subsequently assembled, an illustrious man, then representing that state, and who has since thrown a lustre over our character in the various acts of his public life, proposed this amendment, with an omission of so much as claimed this right of instruction. I am not prepared to receive this as evidence of his own enlightened view of the subject. The constitution, with all its amendments, is the offspring of a spirit of compromise. This alteration, (by his proposition,) of the expressed wishes

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of a convention in whose deliberations he was himself a clear and steady light, owes its birth, in all rational probability, to the same parent. A plain refutation may readily be given, (in my humble judgment,) of all doubts that cluster round this question.

In whose hands is the sovereignty of this Union reposed? The Constitution supplies the answer: In those of the people. And what is the legislative power? It is but a seminal principle which fructifies in those enactments, denominated *law*. Sir, the writers upon jurisprudence, inform us, that Law is a rule of action emanating from a sovereign power, commanding what is right, and forbidding what is wrong. If, then, the people who make the constituent body, are admitted to be sovereign, and each Representative expresses the sense of his constituents upon every vote he may give, in the passage of any law, do you not obtain a rule of action emanating from the sovereign power of the United States, and filling up the measure of the definition I have just recited?

The gentleman from South Carolina asserts for the people a controlling influence, in performing the duty required of this House, when the contingency presents itself, in which a *selection* is to be made here of the Chief Magistrate, because the Constitution recognizes in the people the power and the capacity to make the election. There is a vice in this argument which I think is but apparent, or which may be easily resolved into our difference in the application of terms. The Constitution contemplated an election by the people. But, that it was dangerous to give a power of such magnitude, to less than a majority of the whole who voted. And what is the remedy provided for a failure so to choose? The people are scattered over a vast extent of country; to assemble them together is impossible. The theory of the Constitution then requires, as the most practicable mode, if a popular majority cannot be obtained, that a federative majority shall determine, combining with it the popular influence, by requiring a selection from the highest on the people's list. This is not the only security provided by the system, to give effect to public will. Had it designed to make your President a federative officer, the choice, in the second instance, might have been given the States in their corporate capacities. Not so, sir. The choice is to be made by the House of Representatives, the direct and immediate dependants of the people, but that, in selecting, they shall vote by states. It was always intended that he should be the President of the People, not of the states, nor the creature of this House, and all the securities which the Constitution could furnish to assure this end, seems, in my view, to point that way. It is true, they may be inadequate to the purpose, but that it was designed, cannot admit of doubt. This House, in its several state delegations, cannot be considered as the depository of the sovereignty of the States, but as the Representatives of the people, not responsible to the States, but to the Districts which they severally represent. Would it not then be a departure from all the checks and principles of the Constitution, designed to secure the responsibility of public agents, to look upon members here as representing the States, in this contingency, to whom they owe no obligation, and as not representing the people to whom all accountability is secured by the forms of the Constitution. If this conclusion be a just derivative from the view taken, what is the pending obligation in making the choice? A sense of political duty will give the immediate reply. The President is designed to be the Chief Magistrate of the nation; the appointing body is chosen by the people, and the public will points to the path of safety when it points to the path of duty.

It is your duty, because you are chosen by those who have the inceptive right of making the election, and this course justifies and responds to the high trusts con-

fided. Safety results from it, because the magistrate so appointed reflects the wishes of the whole mass of the people, and will be the faithful guardian of their rights, their honor, and their independence. Elect upon these principles, and you constitute a President who unites public confidence and respect. He is clothed with a shield for your protect on at home, and armed with the sword of retributive justice to punish foreign aggression. Choose him upon the other principle, he is the creature of the Legislature, and not the servant of the people; dependent upon you, and responsible to you, what security is left for the preservation of our popular system? Can he combine the affections of the people when his appointment is in pursuance, not of their will, but in manifest contravention of it? You may, indeed, have given him shape and form, and encircled him with the trappings of power and office, but he is not touched with the vital element which alone can give him being. Is he surrounded with the affections of a grateful and confiding people, which makes him the servant "of the people for the people's sake?" No, sir; he is pursued by their fears and trammelled with their jealousy. The wishes of the nation driven contemptuously before him, while all the calamities of misrule follow in the rear.

Nor does the evil stop here. Whoever the individual may be, he can be but man. Filled with the frailties that belong to his condition, will he not seek to convert his pillow of thorns into a bed of roses, and meliorate his condition by seeking to ensure a re-appointment? All the purposes of corruption will be essayed. The creature of this House, deriving being from it, amenable by impeachment to the Senate, who, with him, hold the appointing power of the Government, throughout the extended sphere of patronage, what, in some coming age, may not occur, when corruption, which grows with our years, shall have sapped the foundation on which all our purity rests! The purse of the nation in the hands of this House, may be made to act upon the Senate, and they, in return, to distribute among the Representatives or their instruments, all the offices, lucrative or honorable. What is the responsibility of such a President? Not in the impeaching power of the Senate—for this House, in which it must originate, and there, where he is to be tried, are his co-partners in guilt. Sir, to use the language of an eloquent gentleman on this floor, it was contemplated some years past, "to set up a pageant under color of law," in the chair of our Chief Magistrate. He would have been the President of the Legislature, not of the People. And does any man believe, for a moment, that such a thing could have administered the Government? He would either have fallen a victim to the popular rage, which such an act would have lifted into tempest, or, had he weight enough to sustain himself, the liberties of his country would have been crushed, under his influence. And yet the gentleman from North Carolina considers such principles as these, jacobinical doctrines.

[Mr. MANGUM here observed, in explanation, that he had never said that these were the doctrines of jacobins. What he had said was this—that all jacobins began their course with very ardent professions of love to the people.]

How does the explanation of the gentleman affect the principle. These doctrines were professed by jacobins, and with them Bonaparte became the despot of France. Are such principles the less just among our sober reflecting people, because jacobins and Napoleon professed them? We are told that "hypocrisy is the homage which vice pays to virtue," and it is as true in politics as in morals. If others have lost their freedom by being duped with such a deceptive avowal of just opinions, shall we abandon them, when they have already proved the sheet anchor of our safety? It would be easy to retort, by saying that, if jacobins have professed these principles, the doctrines of the gentleman are

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those upon which despotism has acted. If you view this body as one in which is a lodgment, a trust, of the powers of ten millions of people, it is an august Representative Assembly. If a body exercising such high prerogatives independent on the people, they are either so many members clothed with arbitrary power, or they dwindle into individuality. By such results, it may happen that the public passions are kindled; the forms of the constitution unable to restrain the turbulence of faction, jacobins spring up, and tyranny follows. It was not these doctrines that gave a Bonaparte to France, but an abandonment of all rational love of liberty. Her Revolution burst out as a volcano—its crater was the birth-place of Napoleon—its lava the food of his ambition. He was mistakenly hailed as the champion of freedom, until his bloody banners floated in triumph over the fairest portions of continental Europe. When his followers awoke from the delusions into which he had lulled them, the iron power of despotism had fixed its dark dominion. Both he and his precursive jacobin horde, are alike swept from the earth, and I ask, is the condition of humanity meliorated by the change?

Whenever, Mr. Chairman, a struggle shall arise between this country and this House for the choice of President, we may shudder for the continued existence of our political institutions. Either the Representative body will sink in public estimation, or, if they triumph, it is a victory which subverts the basement of our free institutions.

The wise and jealous men who gave being to our form of Government, were deeply read in the history of past times, and they scanned, with prophetic eye, the coming events of futurity. The mournful lot of all the Governments instituted for the professed purpose of ensuring the liberty and happiness of man, filled them with apprehensions of danger to our new experiment. The opinion was received, that a republican form of Government was suited only to a small extent of country; and in the examples of past times, they found that intrigue, faction, and corruption, were the most deadly enemies of democracy. Against their assaults they sought to plant round the pillars of this new and experimental system, every possible guard. They contended that, when the popular will was to be gathered from a widely extended territory, faction and intrigue, always limited in their theatre of action, would not be able to expand their scope over this vast confederacy. Corruption, usually secret in its operations, could not show itself in the face of day, and spread its influence over the same expanse.

In securing the power of electing a Chief Magistrate to the great body of the people, scattered over so vast a territory, it was believed that such only would be chosen who possessed those commanding talents, and those sublime virtues, that are the subjects of universal admiration. By adopting the principle of the gentleman from Delaware, and vesting in this body an irresponsible power of selection, you banish this great safe-guard of the constitution. You force the election into that small space upon which full scope is furnished for the operation of these baneful enemies of our free institutions. Upon the theory I have sought to advocate, in which members are the mere organs through which public sentiment is disclosed upon this floor, this great conservative principle is maintained in all its purity. The honorable gentleman from North Carolina says that, by this course, no election could possibly be made. I think differently. If each representative shall here speak the sense of his constituents, and that should not disclose on the ballot a majority of the whole, I take it that his duty would require of him by all exertions to give effect to their will. Should this be unattainable, and the last ray of expectation be extinguished in the gloom of despair, he should cast from him the expired hope, and yielding to the greater principle, which

makes the safety of the nation the supreme law, he should make a President of one who, upon the best evidence before him, operating upon his honest judgment, appeared to combine the largest share of public affection and national support. The predilections of a part must, in the end, yield to the wishes of the whole. The gentleman from North Carolina tells you that, according to the argument of the gentleman from South Carolina, you would fail to make a Chief Magistrate; and yet, in the course he speaks of pursuing himself, he would be conducted to the same result. He tells you that, for himself, he stands on an isthmus where the waves may lash in vain; unawed by fear, and unflattered by hope, he will not depart from his ground. What is to be the consequence, but the same catastrophe which he humbly thought was ascribed to the principles of the gentleman from South Carolina.

We are further asked, how are we to ascertain the will of the people? The forms of the constitution, framed in the wisdom of departed patriots, must be taken as the surest indications. If these are wrong, then is the constitution; resting on a vicious principle. It is somewhat difficult, in this country, amid both the freedom and the licentiousness of the press, to mistake the signs of the times. He would not seek to propagate theoretical principles, to which he would not in practice conform. Those who sent him here knew that he would have preferred two other candidates to the one who is their choice. He had no time to hesitate, with his limited intelligence. He could not presume to put his judgment in resistance to the mass of intelligence in the forty thousand electing him. It had been in vain for him to tell them of his predilections and high estimate of others. They presented him their candidate, of whom they said, his genius was his fortune, and his virtues his arts, his past service a pledge for the future, and by their sense required him to give that candidate his support. Their will was to him a law. Not a cold and dubious support should follow it, but one that would falter with the last hope.

Mr. M'LANE, of Delaware, rose, and said, that he had been the unintentional cause of a debate, which he regretted now to be obliged further to prolong. If he could have foreseen the range the debate would have taken, when he briefly stated the grounds which would influence his course, he would have contented himself with a silent vote; but, unprofitable as the discussion was likely to be, he felt bound to make some reply to the observations of the gentleman from South Carolina, (Mr. M'DUFFIE.) That gentleman had seized upon one or two general positions, which he (Mr. M'L.) had originally advanced, to deliver, with his usual talent and adroitness, a popular harangue upon the Presidential question, which, though certainly eloquent, was any thing but an answer to the argument which Mr. M'L. had submitted. Mr. M'LANE said, he felt under no obligation to follow the gentleman through all the topics to which he had adverted, and he could but remark, that the observations of the gentleman would have been much more pertinent, if he had been making a new constitution, than in interpreting the present. Mr. M'LANE said, it was no part of his business to inquire, whether better and more expedient provisions might have been made, or whether the will of the people could be more readily attained. It was enough for him to consider his own rights and duties under the constitution as it exists at present.

The points between the gentleman from South Carolina and myself, said Mr. M'L., are few, and confined to a small compass. I contend that the immediate constituents of a member of the House of Representatives have no right to instruct him in his vote for a President, and that, though the opinion of the people of this Union, when fairly ascertained, would be entitled to great weight, it would not be absolutely imperative, but that

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the Representative should, in all cases, exercise a sound and honest judgment, acknowledging only his ulterior responsibility. This is denied by the gentleman from South Carolina, who asserts the right of instruction, in this instance, to the fullest extent. To these points Mr. M'L. said he could confine his argument, leaving the mass of the gentleman's remarks to produce an effect wheresoever they might.

I distinguish our duty, said Mr. M'LANE, in the election of a President from that in cases of ordinary legislation, though not admitting the right of instruction in either, because, in the former, our duties are not legislative but rather judicial, or a part of the electoral franchise, which, in its very character, implies freedom of thought and action.

The gentleman also distinguishes these duties, but reaches the opposite conclusion. He denies the right of instruction in matters of ordinary legislation, yet contends for it in our electoral duties! His theory is, to my mind, fallacious and unsatisfactory. He says the people have no right to make, are incapable of making laws, and therefore delegate that power to us, and cannot control us; but the people have a right to elect a President, and therefore can instruct us in our choice! If the premises were sound, a precisely opposite conclusion would clearly follow; for, in the first instance, not being able to make laws, the people might well be supposed to constitute us their agents to act for them, and therefore, to a certain extent, retaining the right to exercise a reasonable influence over our conduct; but, in the other case, having the right to make a President for themselves, and failing to do so, they could not claim to direct us, who are not acting for them, but for ourselves and the nation at large. The argument, however, is not well founded.

The theory of our Government, it is true, is, that all power is in the people, and derived from the people—but they never act themselves, excepting in their electoral franchise. They act through the different organs and functionaries of the Government, appointed by the constitution and the laws, and they have no proper right to act in any other way. These functionaries are always responsible for a wise and faithful discharge of their various duties, but cannot be instructed in their exercise. The Congress are authorized to pass laws, and the judicial power to execute them—the people give the power to both, but they cannot properly instruct either.

The gentleman is in error in denying to the people the right of making laws. They have precisely the same right, in this respect, that they have to elect a President. If they had not, how do we get such right, deriving, as we do, all our powers from them? It is, after all, a mere matter of convenience. The people have the right to make laws, but finding it inconvenient, or impracticable to exercise it, delegate the trust to both Houses of Congress. They have the same right, and no more, to elect a President; being more practical in its exercise, they retain it in the first instance, but, foreseeing that this also might prove inconvenient or impracticable, they have delegated that power, in a certain extent, to the House of Representatives. In both instances the power is parted with for similar reasons, and therefore, so far as the original capability of the people is concerned, there is no ground of distinction.

The choice of a President is both a power and a duty devolved upon the House of Representatives. It is devolved here, to be sure, by the people, under the provisions of the constitution, but differing, therefore, from any other delegated authority, only that, being an electoral, and not a legislative franchise, it is not liable to be controlled, at least by a power less than that conferring it. But, said Mr. M'L. let us apply the gentleman's own distinction to the case before us. He says the people have no right to instruct their representatives in a case of ordinary legislation, because they are incapable

of passing laws. Well, sir, in the case before us they have proved to be incapable of electing a President; not in theory, but in fact; they have made the attempt, and failed; and for that reason, the duty falls upon us; how, then, upon the gentleman's principles, can the right of instruction be claimed?

But, said Mr. M'L. the gentleman from South Carolina further argued, that the will of the people is the paramount law, according to what he was pleased to term the philosophy of the constitution—to this the representative is bound to yield his judgment and conscience; and shame, and disgrace, and infamy, are denounced as the portion of him who shall venture to obey his own sense of right in opposition to this will! Before he could recognise a power so absolute, Mr. M'L. said, he was disposed to examine its source and character. He would make no lofty professions of regard for the will of the people, according to the phrase of the day. Nothing was more easy, however—nothing more common—it was the ordinary theme of all political declamation. It is the common price of power, and paid most liberally by those who most covet it. We scarcely read of a tyrant, the first page in whose history is not filled with hal-lujahs to the people's will. Sir, said he, ambition seeks not to be governed, but to govern; to govern the people; and it flatters the people to put more power over them. But, it is the wild tumultuous will that is thus courted; that which springs from sudden excitements, irregular ebullitions, stirred up by practical causes, and confined to particular districts. Of this false image of the people's will he was no worshipper: while, for the real will of the people, he sincerely felt a profound reverence. I mean, said he, the will of a *majority* of the people, *constitutionally* expressed, in the mode prescribed by the laws. It is this will which is the great moral and political power on which the Government reposes. It is this will which comes in the panoply of the constitution, and should be a law to all. He would recognize no other will of the people, than that so made manifest; every thing else was but its counterfeit. For this constitutional will, we manifest our respect, by cherishing and sustaining the institutions of its creation. And of his respect, he said, he would give a practical proof, by yielding a generous support to the man on whom the constitutional manifestation of this will should rest, supporting him when right, and opposing him when wrong.

Now, sir, said Mr. M'LANE, the rights, and duties we are so soon to exercise, never can devolve upon us, if this will be so expressed; and we are obliged to act because it was impossible it could be. No one of the three candidates before the House of Representatives has obtained this constitutional majority, and it is impossible for any of us to say, which of them, or whether either could do so, if the matter were again referred to the people. We should involve ourselves in infinite confusion and embarrassment, to embark on such a sea of speculation. The people have no right to expect us to do so. We have rights as well as they, and both are equally bound by the forms of the constitution. We cannot be ignorant of the speculations which are pouring in upon us from all quarters, and the zeal with which each class of politicians builds up plausible arguments to prove that its own favorite candidate has either obtained, or would obtain, a majority of the people in his favor. In the midst of all these conjectures, however, it is certain that neither has, constitutionally, the majority. In this state of things, it is the right and duty of the House of Representatives to choose one of the three to be President, and the question is, Whether less than a majority of the people have the right, in a loose, unconstitutional manner, to control that choice? If the constitution requires a majority, it would be unwise in us to be swayed by less, and it would be usurpation in others to attempt it. I am bound to presume that the distribution of powers, under this Government, was for wise

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purposes. I will neither encroach upon the rights of others, nor surrender my own. The moment different functionaries, under this Government, conflict with each other, the powers of each will be in jeopardy. The people are empowered, in the first instance, to elect a President in their own way, if they can. With their franchise, in this respect, we have no business to interfere. But, if they fail, the same constitution has created a new electoral power, over whose independent deliberations they have as little control. The opposite doctrine would array the people against their own institutions, and involve both in a common ruin. Our duty is not less important—not less responsible than that which the people have vainly attempted to discharge; and to suppose ourselves less independent than they, would be to impeach the wisdom of the constitution.

The gentleman from South Carolina says, the election of the President, by the people, is the best mode which human wisdom can devise. I may admit the position, but what follows? The constitution supposes it the best, and, therefore, resorts to it in the first instance; but it also supposes it may fail in its object. It requires a majority of the people in favor of some one candidate, to make an election; it supposes this majority unattainable, and, in such an event, which has now happened, directs a new mode of election, and by a different power. I ask gentlemen to look into the constitution, and see what restrictions are imposed upon the exercise of this power. There is none but the number to which the choice is limited. Within this number it is in vain to shackle our discretion.

The constitution meant, and for wise purposes, that the direct agency of the people, in this election, should cease after the result of the electoral votes, and that, in the new and further election, the federative principle of the Government should operate—rejecting all influence from numbers and the weight of population. It became absolutely necessary to resort to such principle, to promote and ensure an election, by disregarding the causes which had prevented it in the electoral colleges. It designed to remove us from that very influence which had defeated the will of the majority. By giving each state a vote, without regard to its population, the electoral combinations or disagreements are broken up, and a new principle established. But the doctrine contended for, by the gentleman from South Carolina, brings the force of the population, in the worst and most irregular form, to operate on the election here, and disappoint the great object of the change.

Sir, said Mr. McLANE, it is plain, that, if the constitution had deemed the further agency of the people essential, or even proper, it would not have devolved the election upon us, where the largest and smallest state is upon an equality, but would have sent it back to the people for a new effort. It would have remitted the choice to them with the same restriction as to the number of candidates, or it would have sent the election to us, to be made in proportion to the numbers of each state on this floor.

If it were deemed inexpedient to send the choice back to the people, for a constitutional expression of their preference, it cannot be wise to control it here by a loose manifestation, or by vague and speculative conjectures.

The gentleman from South Carolina, said Mr. McL. has spoken of an "inchoate election." He says the people have commenced the choice, and that we are only to complete what they have begun. He did not, he said, entirely comprehend the force of these remarks. If they were designed to argue that we should begin where the people had left off, pushing the highest by preference to the others, he could not assent to the proposition. Such an idea was as impracticable as it would be to add states to individual votes. But the act of the people, he contended, was complete, and their

power at an end. Their act was to ballot for a choice—if any one received a majority, the election was complete. If such a majority did not appear, the failure was as complete. He contended that the people were done with the matter; it was no longer in their hands; it had passed into ours, accompanied with a deep responsibility, which we could not otherwise discharge than by an honest, conscientious performance of our duty, according to our own honest judgment.

What then, said Mr. McLANE, are our rights and duties in this matter? The constitution, by which they are prescribed, provides, that, if no person shall have a majority, then, from the persons having the highest numbers, not exceeding three, the House of Representatives shall choose, immediately, by ballot, the President. The time of making this choice, does, of itself, exclude the idea of any interference of the people by instructions. The House are to proceed immediately to the performance of their duty, making it impossible to procure any concerted or regular movement by the people to express their wish. Any other than such, would be worse than folly—it would be delusive and dangerous.

But the House of Representatives are to choose a President. This is both a right and a duty. The right of choosing, implies the right of selection—it implies, also, discretion; the exercise of an unbiassed judgment, the duty of considering the fitness and qualifications of the respective candidates, their comparative merits, their capacity to sustain the institutions of the country, to promote the safety and happiness of the people at home, and the honor and glory of the nation abroad; in short, sir, it necessarily implies the right of considering every thing which fairly appertains to the preference to be ultimately declared. It is our duty to examine and deliberate upon every thing connected with the subject, in reference to the object to be attained. Are gentlemen willing to have this great duty resolved into a simple inquiry into personal popularity? of which of the three our particular constituents might prefer? or which would be most popular in a given district or state? Such an inquiry would divert us entirely from the merits of the candidates, and lead us into a field where every thing is doubt and conjecture. What, said he, are the powers of the people, when they are making the election, and by what motives are they to be supposed to be influenced in their choice? There are no limits to their power; they may even indulge in whim and caprice; but a wise, and virtuous, and intelligent, and patriotic people, must be presumed to be guided in their choice by the character and fitness of the candidate. They look for a Chief Magistrate capable of presiding with safety and honor over the destinies of the country, and less power than they possess over the subject, would be inadequate to the object—would impair their elective franchise! Have we not the same duties to perform, the same objects to attain, and are we clothed with less power and fewer means for their attainment? Could it have been the design of this Constitution to commit this high trust to our hands, and leave us dependent upon the will or caprice of others for its execution? It is our duty and our right to "choose;" but, if we are liable to be instructed, nay, commanded in our choice, the choice is not ours, but theirs who instruct us; it is not a free and independent selection, but obedience to the commands of a superior.

I admit, said Mr. McLANE, that the preference of the people is worthy of consideration, accompanied by an inquiry into the grounds and motives of the preference, and we should fairly endeavor to elect the man who would, or ought to be, acceptable to the people; but, in determining this, we should rather consider the fitness of the man, and the character of the people, than any wild or irregular ebullitions of the popular will. The gentleman from South Carolina has argued, that a great man, of



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distinguished virtues, will always command the approbation of the people. In the progress of things, there is much truth in the observation; and, if we take care to select a man of real merit, who is, in all respects, fitted to promote the great objects of good government, we may confidently expect such a selection to be ultimately acceptable to the people.

It is made our duty to select from *three* candidates; and I contend (said he,) that, as it respects the state of their vote out of this House, they are upon an equal footing—they are all equally nominated for our support, each resting his claims upon his own individual qualifications. Why was this scope given to our selection, if their relative strength be obligatory upon our judgment? Neither the Constitution, or the principles of our Government, pay respect to less than a majority; and, as neither candidate before us possesses this advantage, what other guide have we? The gentleman has argued with great confidence, as if the plurality in vote, were to control our choice. If this were so, the discretion secured by the Constitution would be mere mockery; it must be supposed to authorize us to choose from three, and yet to confine us to one; our duty would be simply to elect the man highest in vote, without regard to fitness. But, sir, said Mr. McLANE, this is not the principle of our Government. In the primary election, a majority of the people is to govern; *here*, a majority of the states. The plurality principle is in opposition to both. The majority of the people are certainly opposed to such a candidate—a majority of the states may be. The state of the vote in the colleges is the result of a state of things which no longer exists. It may have been produced by the number of candidates, and without reference to a preference between the three persons from whom a choice is here to be made. It is our high privilege to weigh and consider all these things; to deliberate upon the qualification of the candidates, and to consider who would best serve the people, and whom they ought to, not less than whom they do, prefer.

The gentleman from S. C. has emphatically desired me to suppose that one man should receive 130 electoral votes, and asks if I should dare put by his claims. Sir, the case is by no means puzzling. I should dare to do so, if in my conscience I believed such a candidate unfit to be the ruler of this nation. I should consider the case as still one of expediency. I admit that so strong a vote ought to have, and could not fail to have, great weight; but still there would be 131 electoral votes opposed to him, being a majority of the people; and there would be quite as much propriety in supposing that that majority would prefer another, more especially, if, in reality, he should be better qualified for the station.

This doctrine of the plurality preference and of instruction, would naturally lead to the most dangerous consequences, and defeat one great object of confiding the choice to us. It holds all our information and experience for naught, and deprives the people of all advantage from the very qualities for which they have selected us for this duty. It can rarely happen that the people of these states can have a full knowledge of the character and principles of men who may be presented for their suffrages. They judge from the representations of others, or from some single glaring or striking act.

The preference is no doubt founded upon his supposed fitness and capacity. They believe him to be a wise, enlightened, and virtuous Statesman, sound and practical in his views, and deserving their confidence. But, is it not possible for all these calculations to prove unfounded? Let me suppose, sir, said he, that we, who may be better acquainted with the individual, when we came to inspect his character and test his fitness, find that he is in reality distinguished for no one virtue, for which the people preferred him; that, in our conscien-

ces, we should be persuaded he was wholly incapable of administering the Government—what would the gentleman from S. C. do in such case? Would he surrender his judgment and conscience to the mistaken preference of his constituents, or fearlessly consult his higher duty to his country?

It was no stretch of the imagination, said Mr. McLANE, for him to suppose further, that some one candidate, returned to the House of Representatives, should be discovered in the use of improper means to promote his elevation: the patronage of his office may have been held out in anticipation, and indications of a policy and administration injurious to the great interests of the nation. In such a case, who could hesitate between the mandate of his instruction, and his duty to the nation?

Sir, said Mr. McLANE, the only true and safe course, is to treat this body as an independent tribunal, bound to elect the man best qualified, in their judgment, to administer the affairs of the nation.

If we are bound by instructions, who have the right to instruct us? It has been already shown, that the election here is *federative*, and not by *numbers*; the votes are by *States* and not by the *People*. We are called to perform this duty for the whole nation, not for any part of it; for all the states, and not for any one in particular. When we enter upon this duty, we lose our relation to our immediate constituents, and are charged with a duty for the whole Union. We become the judges and umpires of the *whole*; we are to act for the interests of the *whole*.

It is in this way only, that the equality of the votes of states here, can be reconciled with the general theory of the Government. If I act here under the instruction and dominion of Delaware, the population of that state controls tenfold its numbers elsewhere. But, if I act here, under no more particular responsibility to my immediate constituents in Delaware, than to the rest of the Union, and consulting the interests of the whole, this disparity, which has been so much complained of, disappears.

If in this election I preserve my ordinary relation to the people of Delaware, then to them only am I responsible, and upon me *their* instructions only, are obligatory. What then becomes of the plurality vote, if their instructions command me to disregard and disobey it?

I ask again, said Mr. McLANE, Where is the power from whence these instructions can constitutionally emanate? From the people they cannot, for there is no mode by which their will can be ascertained. For I desire to protest against all partial or local assemblages as indicating the will of the majority. From the Legislatures they cannot, for these bodies are charged with no such duties, and can have no better means of ascertaining the public will than we, who spring from the same source. Sir, said Mr. McLANE, if we are called, in the discharge of this duty, to act for the whole people of this Union, and are bound to consult the interests of the whole; and if, in the performance of our duty, the plurality of the votes of the whole people, expressed in their elections, can have no obligatory force with us, how can it be said, that the opinions or instructions of our particular county or district, or even a state, can be more imperative?

Mr. McLANE said, when he was up a few days ago, he had ventured to argue, that if we were bound to regard the will or instruction of our particular districts, we should be constantly in danger of making no election at all. If each state have the right to instruct its Representatives, there can be no change until the one or other give way. The gentleman from South Carolina has taken occasion to express the utmost apprehension of the consequences of no election, and would conceive himself an object of just reprobation if he could be instrumental in producing such an alternative. But if he

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be bound by the instructions of his constituents, and they direct him not to give way, he is no longer responsible; he yields to the power of others, and takes no blame to himself. Is there no danger to be apprehended from this quarter? Does excitement prevail no where but in this Hall? Are there no sectional jealousies, and local prejudices to be stirred up in such a contest? Does not every one know the height to which the public excitement may be carried by political contests, and the zeal and obstinacy with which angry partisans maintain their point? Suppose, under such a state of excitement, that three candidates come to this House, with the states equally divided; how could we hope to make an election? Each state instructs its Representation to hold out, to nail their flag to the mast, and go down with their ship; and all the evils of contending passions and jealousies immediately ensue. My word for it, said Mr. M'LANE, let the popular fervor be once fully roused, and the tumults will rage as wildly without as within these walls. We cannot avoid these difficulties, until we learn to value our own freedom and independence; to be responsible only, in the discharge of our duty, to our own consciences, to the interests of a common country, and our ultimate dependence upon the will of a constitutional majority.

No responsibility could be weightier, and the doctrine of instruction and obedience, this counterfeit image of the people's will, could not fail to weaken it. It would do more—it would subvert the independence of the Representative, and seriously disturb the public tranquillity. As long as we are held to an honest, conscientious discharge of our duties here, we shall act with greater judgment and circumspection—we shall measure our obligations by the scale of the Union, and act under views worthy of so high a trust. But we should no sooner cast off this independence, and yield our judgments and consciences to the dictates of any authority whatsoever, than we should cease to exert our own faculties, and be driven about, the sport of every popular breeze. We should escape from our duty to the whole, and seek refuge under the local or narrow and capricious views of a particular part. A high national responsibility, involving loftiness of character and virtuous fame, would give way to considerations of place and power; we should soon learn to value a seat on this floor more than the higher concerns of a great nation; and, instead of consulting the interests of the American people, we should obey only the commands of a single Congressional district.

According to the theory for which he contended, said Mr. M'LANE, the duty of a member of this House is that of a great moral agent, looking, with a single eye, to the welfare of a common country, and guided by considerations of a similar kind. He acts fearlessly and independently to the attainment of that end: if he fail, from weakness of character, or through corrupt means, and give just offence, or produce injury to the people, the remedy is found in the elective power of the people. It is the ultimate remedy for all evils and abuses in the Government, and will never prove inefficacious as long as each public functionary shall be kept within its appropriate sphere. There is force enough in it to secure an honest discharge of our duty—it is terrible only to evil doers. If it be rashly or vindictively applied, it deprives us of the honor of a seat here; but it leaves us in possession of that which is of far more value, and well calculated to alleviate the loss of place. I do not say that the honor of a seat in this House is to be lightly esteemed, or that he who could not surrender it without regret, would be unworthy of its occupation; but I will say, that it is not likely to be honored by him who would be incapable of performing its duties with an honest independence. Mr. M'LANE said he was not ambitious of figuring in an opposition to the popular clamor, nor was he at all disposed to court responsibility; but he would not shrink from it, when it came upon him, and he could

imagine it to be sometimes a virtue to oppose even the wildest tumult. It behoved every man placed in such a station to meet the crisis with calmness and fortitude; to throw his eyes abroad over the whole scene, and do the best for the safety and happiness of the whole. It would ill become us, he said, in such a crisis, to be found timid and wavering, infirm of purpose, bending to the storm, or yielding our judgments to the commands of others.

Our great duty, upon such an occasion as the present, was to compose difficulties, not to heighten them with others, or to be agitated by them ourselves. The supposition is, when the election of a President devolves upon this House, that the public voice has been distrustful and distracted by serious and unavoidable difficulties: by the number of candidates, personal predilections, and hostility: local views and sectional jealousy; party feelings and factious excitement. By these and other causes, the public mind may have been thrown into the most bitter and violent commotion, alarming to both social and public tranquillity. The Constitution erects this House into a high and sacred tribunal, to compose and quiet these angry elements—to allow time for their fury to subside—to bring order out of confusion. We should be false to ourselves and to the country, if, instead of doing so, we should launch forth upon this wild ocean, and fret and vex it afresh. It is not for me to say how surely this would be done by bringing public excitement to operate upon our deliberations in such an election.

Then, sir, said Mr. M'LANE, if I be correct in the views I have taken of the rights and duties of the House of Representatives in this election, does it not follow, that all attempts to control, or sway, or intimidate the free exercise of our sober, independent judgment, are indecorous and improper? He would not now detain the House, after the time he had already consumed, in detailing the various means which might be employed, and the different kinds of influence which might be brought to control the independence of members. It was unnecessary for him, he said, to describe the effects of all those popular engines which a state of high public excitement always puts in motion, and which, from the seeds sown in county meetings, to the fruits appearing in the persons of self-constituted committees, which may daily surround this Hall, were constantly operating. We guard the election by the people, said he, from all tumult and disorder, and carefully banish all illegitimate influence at a distance. Why are we fearful of surrounding our own liberties with equal security? The character of all these influences is progressive; and the most fearful apprehensions entertained, by able commentators upon our constitution, of an election by the House of Representatives, have been from the effect of these extraneous influences, both civil and military, which may easily be put in motion. Mr. M'L. said he had no apprehension of such evils at the present day; but he repeated, that now, when every thing was comparatively tranquil and secure, was the most suitable time to make provision for the day, when the tempers of gentlemen would be less calculated for cool deliberation. If the people had no power to interfere with our conduct, they could claim no right to superintend our deliberations. He had as little at stake as others, however, and should submit, with as good a grace, to the decision of the House.

Mr. M'LANE said he could not conclude his remarks without some notice of another topic of the gentleman of South Carolina, (Mr. M'DUFFIE,) to which he wished he could have been spared the duty of adverting. It was the reply which that gentleman had given to the precedent of 1801, which he Mr. M'L. had, on a former occasion, called to the attention of the House. It had been summarily and violently denounced, because it had emanated from the old federal party. Mr. M'LANE

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remarked, that what he said on a former occasion on this subject, would make it unnecessary for him to say much more now. He was not so weak as to enter, at this time of day, upon a grave and argumentative defence of the federal party. He well knew it was not to be defended by speeches in or out of this House. It would have to rely for its defence upon the wisdom and propriety of its works, to which the general state of our national happiness and the cool judgment of posterity were fast affixing their seal. To the survivors of that party, it must be a source of proud satisfaction to witness the wisdom of its policy daily triumphing over the bitterest prejudices, while those who had disappeared from the stage, had passed to a higher reward. He could but lament, however, the disposition occasionally manifested to keep alive those old animosities. It was sufficient to satisfy him that the Monster Party was not dead, but sleeping, and not so sound but that now and then it would rouse up and shake his grisly mane. He had not altogether distrusted the promise, that, in the present day, some *Hercules* would appear to rid us of this Monster with more heads than the Lernaean of old, and he sincerely hoped, that, after this labor should be achieved, he should not continue to be wounded by the arrows of the conqueror, more fatal than even those dipped in the gall of the ancient Hydra.

The honorable gentleman from South Carolina, (Mr. M'DUFFIE,) however, had declined considering this as a precedent of the federal party; but had pronounced it the act of a party who had deliberately determined to violate the Constitution of their country; and the gentleman had further said, their reward had been *political infamy*! Sir, said Mr. M'LANE, I hope this was rather spoken in the heat of debate, than with a dispassionate foresight of the extent of such a denunciation. He knew the gentleman was too chivalrous to carry it out seriously to its consequences, and yet his remarks were liable to such an interpretation. However this may be, said Mr. M'L. it is but declamation; nothing was attempted upon that occasion that the Constitution at least did not warrant, and men as pure as any this nation has produced, embarked in the enterprise. Sir, the *political infamy*, of which the gentleman has spoken, exists only in his own imagination. It has not tainted the life of scarcely an individual who was concerned in that famous election. If the gentleman will cast his eye over the Journal of that period, he will see the names of many whose fame and virtues are much more to be envied than shunned. One, and by no means the least eminent, was then an able Representative of the same State which the gentleman now represents upon this floor. From that period his life was marked by the exhibition of great probity and talents, commanding public and private admiration; sharing, in his life, the confidence of his fellow-citizens, and, in his death, but the other day, wrapping a neighboring city into mourning.

Sir, said Mr. M'LANE, my own state had the honor to claim as her Representative an able and conspicuous statesman of that Congress. Deservedly distinguished as he was for the noblest private and public virtues, the lustre of an illustrious life shone with new light upon the public eye after the scenes of that day. He lived only to give stronger proofs of his patriotism, and to fasten his hold upon public confidence and admiration. He was even selected, at a most critical period of public affairs, by a Republican administration, for a highly important trust, and bore a conspicuous share in that memorable negotiation which restored peace to a bleeding country. Sir, I have a high respect for the gentleman from South Carolina, and would rather smooth than obstruct the path of his fame; but, were my feelings for him much warmer than they are, I could not wish him a more enviable lot than the same portion of private and political character, which rewarded the virtues of the distinguished individual to whom I have alluded, who

was the pride of his state and the ornament of his country.

Mr. WEBSTER then rose, and said, that the precise question before the committee, as he understood it, was on expunging that part of the third rule to be observed in conducting the approaching election, which prescribes that the galleries of this House, which at first are to be open to the public, may be cleared at any time pending the election, at the request of the delegation of any one state. If the motion obtains, the standing rule of the House on this subject will then be in order, which is, that the Speaker, as a matter of duty, and a matter of course, may cause the galleries to be cleared whenever any disorder, on the part of those who attend there, shall, in his opinion, render it expedient and proper. So that, in fact, the question before the committee, which has been, he would not say, the subject, but which has been the occasion of such an extended discussion, is simply this, whether the power of clearing the galleries, in case of disorder, shall rest with the Speaker of the House, or with the delegation from a state. This is the precise question, which the committee have to decide. A very broad discussion had been gone into, as to the effect of those various considerations which ought to influence a member of this House in giving his vote. As constituting, either in whole or in part, the delegation of a state, he would not say that the arguments which had been brought forward had not any relation to each other. But he must say, that their relation to the question before the committee, was but slight. The question had been treated with a view to national considerations, but it must be extremely evident, that the House could not prescribe how much relative consideration ought to be given to one, and how much to another of these considerations. And in such a case each member must judge for himself, what degree of respect is due to this or that mode of expressing public opinion. Whether he shall have regard to public opinion as it now is, or as it will soon be; on every question of this kind, each man must decide for himself. A course of remark has been gone into, historical allusions had been made, and not very slight denunciations had been uttered, in relation to a former precedent, to all which it might be expected that he should make some reply; and he certainly felt, as was natural in his circumstances, a strong desire to do so; but he was restrained from indulging this desire, by what he considered to be his duty to the House. It must be, by this time, perfectly evident, that no valuable result could be obtained by the most protracted discussion; and he would submit to the candor of gentlemen the propriety of making some disposition of the subject before them, without further delay. He hoped that the motion he was about to make, would be received in the spirit in which it was made. The House was on the eve of a great and interesting duty. It was indispensable that some rules of proceeding should previously be adopted. With respect to the particular rule now in discussion, he considered it as very unimportant in itself. If important at all, it had only been made so by the discussion of which it had been made the subject. Rather than spend ten minutes more of the time of the House, he would, for himself, willingly consent, that the power in question should remain with the Speaker, or should be given to the delegation of a state. He, therefore, moved that the committee do now rise, and that the residue of the rules should be determined on in the House.

The motion was agreed to, and the committee then rose, reported progress, and were refused leave to sit again: and the committee was discharged from the further consideration of the subject.

On motion of Mr. COCKE, the Committee of the whole on the State of the Union were discharged from the further consideration of the rules referred to it; and they were laid on the table. They were then taken up and read in order. The first rule is in the following words:

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"1st, In the event of its appearing, on opening all the certificates, and counting the votes given by the electors of the several states for President, that no person has a majority of the votes of the whole number of the electors appointed, and the result shall have been declared, the same shall be entered on the journals of this House."

This rule, having been read, was agreed to.

The second rule, on motion of Mr. BASSETT, was amended, by inserting, after the word "called", the words "by states;" and, thus amended, it reads as follows:

"2d, The roll of the House, shall then be called, by states, and, on its appearing that a member or members from two-thirds of the states are present, the House shall immediately proceed, by ballot, to choose a President from the persons having the highest numbers, not exceeding three, on the list of those voted for as President; and in case neither of those persons shall receive the votes of a majority of all the states on the first ballot, the House shall continue to ballot for a President, without interruption by other business, until a President be chosen."

And, thus amended, it was agreed to.

The third rule having been read, a motion was made to strike out the last clause, which orders the galleries to be cleared at the request of the delegation of any one state.

On this question, Mr. M'DUFFIE rose, and observed, that he left it to the House to determine on whom the responsibility rested, of giving to the present discussion the extensive range which it had taken. For himself, he had adopted as a constant rule, not to consume the time of the House by any remarks which had not a direct reference to the subject before it, or, which were not drawn out, by topics brought into the discussion by other gentlemen. As to the present discussion, he had considered the gentleman from Delaware as assuming, at the commencement of it, as the ground on which he thought it wise policy to clear the galleries, that members of this House, when engaged in electing a President, did not act as the delegates of the people, and were not responsible to them. The reply which he himself had made, was directed only to this principle. It went no further. In replying to his remark, the gentleman from North Carolina and the gentleman from Delaware, had extended the discussion still further, and had made a theoretical discussion of the powers of the House to bear on the question immediately before it. And now, at the close of one of the most eloquent and imposing arguments ever delivered in this House, a member rises in his place and suggests the impolicy of continuing the argument. He felt very great respect for that member, but he considered the matter to be discussed as of the greatest importance. The principle laid down had a very wide and extensive bearing, and he felt it his duty to submit to the dictates of his own judgment, and give the principle that discussion which he considered it entitled to receive. The responsibility rested upon him, and he well knew the impatience of the House, and was aware of the lateness of the hour; but he was compelled, notwithstanding these disadvantages, to go into the argument, and to reply both to the gentleman from North Carolina and the gentleman from Delaware.

Both of those gentlemen had put cases, urged with a great deal of ingenuity, to show that the doctrine for which he contended, viz.: that, in electing a President, the people have a right to instruct their delegates, would operate, in practice, to defeat the election. Sir, said Mr. M'D. if that consequence can be shown to be fairly deducible from the principle I advocate, I will abandon it. But I think, that, so far from this being the case, the danger exists only in the imagination of the gentlemen who urge it. What is the case supposed by the gentleman from North Carolina? That there are three candidates; and that eight states vote for each of them. Well, take that case. The gentlemen say, if the people

have a right to instruct their delegates, then, instructions once given, cannot be resisted, and so the delegate must go on voting to the end, for the candidate designated by his own state, and thus the election will be prevented altogether. But this statement arises from an entire misapprehension of the ground I take. I did not contend that the delegate must go on voting to the end as he began, and so defeat the election. I only contended that the popular will of the state is as binding on me, as they say the dictate of conscience is binding on them.

I will, therefore, turn the gentlemen's case upon themselves. Suppose there are three candidates, and the members from eight states hold themselves bound in conscience to vote each of them, can there be an election in this case? No, sir. They say, that if the popular will is to bind me, I must continue to submit to it. Well, sir, if conscience is to bind them, they must continue to submit to it. I do not say that the people have a legal right to instruct their delegates, but—

[Here, Mr. WEBSTER observed, that he rose with great pain. He hoped the gentleman from South Carolina would do him the justice to believe, that nothing but an imperious conviction of duty induced him to interrupt an argument which he knew it would give him pleasure to hear, but he submitted whether it was in order to go into an argument in the House in reply to an argument urged in committee of the whole, any more than if it had been urged in a select committee.]

The SPEAKER decided that the observations of Mr. M'DUFFIE were not in order, on the ground stated, and that they were not in order for another reason, viz. that the whole scope of the debate was irrelevant to the question actually before the House.

Mr. M'DUFFIE, upon the latter ground, submitted to the decision of the Chair.

The question was then put on the amendment, and carried.

Mr. WRIGHT moved further to amend the rule, by inserting, after the words "Senators," the words "Stenographers;" which was carried.

And the rule, as amended, was adopted, and read, as follows:

"3d, The doors of the Hall shall be closed during the balloting, except against members of the Senate, Stenographers, and the Officers of the House."

The fourth rule was then read, and adopted as follows:

"4th, From the commencement of the balloting, until an election is made, no proposition to adjourn shall be received, unless on the motion of one state, seconded by another state; and the question shall be decided by states. The same rule shall be observed in regard to any motion to change the usual hour for the meeting of the House."

The fifth rule was then read, in the words following:

"5th, In balloting, the following mode shall be observed, to wit:

The Representatives of each state shall be arranged and seated together, beginning with the seat at the right hand of the Speaker's chair, with the members from the state of Maine; thence, proceeding with the members from the states in the order the states are usually named for receiving petitions, around the Hall of the House, until all are seated;

A ballot box shall be provided for each state;

The Representatives of each state shall, in the first instance, ballot among themselves, in order to ascertain the vote of their state, and they may, if necessary, appoint tellers of their ballots;

After the vote of each state is ascertained, duplicates thereof shall be made out, and, in case any one of the persons from whom the choice is to be made, shall receive a majority of the votes given, on any one balloting, by the Representatives of a state, the name of that person shall be written on each of the duplicates; and, in case the votes so given shall be divided, so that neither

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of said persons shall have a majority of the whole number of votes given by such state on any one balloting, then the word "*divided*," shall be written on each duplicate;

After the delegation from each state shall have ascertained the vote of their state, the Clerk shall name the states in the order they are usually named for receiving petitions; and, as the name of each is called, the Sergeant-at-Arms shall present to the delegation of each two ballot boxes, in each of which shall be deposited, by some Representative of the state, one of the duplicates made as aforesaid, of the vote of said state, in the presence, and subject to the examination, of all the members from said state then present; and, where there is more than one Representative from a state, the duplicates shall not both be deposited by the same person.

When the votes of the states are thus all taken in, the Sergeant-at-Arms shall carry one of the said ballot boxes to one table, and the other to a separate and distinct table;

One person from each state, represented in the balloting, shall be appointed by its Representative to tell off said ballots; but, in case the Representatives fail to appoint a teller, the Speaker shall appoint;

The said Tellers shall divide themselves into two sets, as nearly equal in number as can be, and one of the said sets of Tellers shall proceed to count the votes in one of said boxes, and the other set the votes in the other box;

When the votes are counted by the different sets of Tellers, the result shall be reported to the House, and if the reports agree, the same shall be accepted as the true votes of the states: but, if the reports disagree, the states shall proceed, in the same manner as before, to a new ballot."

Mr. HAMILTON, of S. C. then moved to amend this rule, by striking out what follows the words, "a ballot box shall be provided for each state," and inserting the following:

"Labelled, with the name of the state, placed in front of the Speaker's chair, on the Clerk's table—placed in the order of the states. The Clerk shall then proceed to call each delegation in the order in which petitions are called, and the member of each delegation shall place his ballot in the box labelled with the name of the state. After all the states have thus voted, then the members of each delegation shall nominate a member of their delegation to act as Teller, who shall proceed, with the rest of the Tellers appointed by the several delegations, to count the votes of each state, commencing in the order in which they are called; at the close of which count, the separate vote of each state shall be declared by the senior member of the Committee of Tellers, as well as the result of the aggregate ballot. Should the delegation of any state fail to appoint a Teller, then the Speaker shall nominate one, and where there is but one member of a state, he shall act as Teller. These rules shall be observed in each successive ballot, until a choice is produced, in conformity with the provisions of the constitution of the United States."

Mr. HAMILTON rose, and observed that, in offering this amendment, he disclaimed any intention to provoke a debate on a subject which might be susceptible of extended and various considerations. My object, (said Mr. H.) is to endeavor to adopt, within the provisions of the constitution, some mode by which the vote of each state, (not the members of the several states,) may be ascertained. To the members composing the delegations I know that the privilege of a secret ballot is secured. This I do not propose to violate: but I do propose that some mode should be adopted, by which the vote of the state, when given, should be put on record on the journals of this House, and the people be enabled, in an authentic form, to know how their Representatives have given the vote of the states which they represent.

Now, by the mode reported by the committee, there are to be twenty-four distinct and secret colleges, each state acting under its own discretion, and the strange result might occur, that, in one delegation, blank votes would be counted, and, in another, rejected, and by this clashing it might, in effect, arise, that an election should be produced, which was not the result of a majority of the states.

The amendment he had submitted, provided that the vote of each state should be in a separate ballot box, and be thus told and declared. He felt satisfied that, although it seemed in its operation to disclose the vote of a member, when that person represented alone a whole state, yet this was an accident either of good fortune or bad, according to the pride and regret with which such gentlemen might view their situation. Besides, he did not suppose that any gentleman on that floor would desire to have any result, produced by his acts, attributed to another, which, in the portentous darkness which was about to veil their proceedings in relation to the mode of balloting, might occur.

In conclusion, he would say, that we were bound, as far as it was admissible, within the secret ballot, accorded to each member, to allow the people to understand, at least in our condescension, how the vote of their different states have been given, in a shape more authentic than rumor, or even a newspaper report. He defied any man, in the odious contest of 1801, to determine how the states had voted, from the journals of this House; and he thought such a mysterious mode of choice suited rather the muffled secrecy of a Venetian Senate, than an assembly representing a free people. Let us have no approach, even in appearance, in our transactions on this eventful occasion, to that terrible image of jealousy, secrecy, and prostration of public freedom, exhibited by the brazen lion of Venice, which, with his gaping mouth, receives a vote which comes whence nobody knows, and for which nobody is responsible.

Mr. WEBSTER requested leave to make a single remark, which might save further discussion. The rule, as proposed by the gentleman from South Carolina, would be in direct violation of the constitution. The constitution says, that the states shall vote by ballot. But the proposed amendment would defeat that intention. Some of the states are represented only by a single delegate; and, if the proposed amendment prevailed, each of these gentlemen is compelled to declare in what way he has voted.

Mr. HAMILTON observed, in reply to the gentleman from Massachusetts, that, on a question involving a construction of the constitution, he would advance his own opinions with some deference, in opposition to the opinions of that gentleman. But he contended that, substantially, by his mode, the vote was given by states, which was all the constitution renders necessary; that, so long as the mode by which the sense and vote of each state were ascertained was by ballot, all the requisitions of the constitution were complied with. His amendment, in fact, merely provided for a separate ballot box for each state, rather than a general one, by which the vote of the several states would be wholly unknown. Mr. H. then dwelt very briefly on several public considerations, which rendered such knowledge important, and concluded by saying, that, from the lateness of the hour, and the short time which was allowed them now for the passage of the rules, he would not press the discussion further.

Mr. WRIGHT, of Ohio, observed, that if gentlemen would examine the rule reported by the committee, and the amendment proposed by the gentleman from South Carolina, (Mr. HAMILTON,) with the constitution, they would find the rule *was*, and the amendment *was not*, consistent with it. The constitution requires the choice to be made by ballot; the votes to be taken by states, each state having *one vote*. The amendment goes upon



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the principle, that you must present to the House one vote for each member from a state, instead of one vote for each state, without regard to the number of members. The difference must be obvious. The rule prescribes the manner in which each state shall ascertain its vote, and when ascertained, how that vote shall be presented to the House, and be told off; the amendment seeks to deprive the states of a vote by ballot, and to confer power on the Tellers, who shall ascertain, by counting the ballots of the members, how the state would vote, to give that vote *viva voce*, not by ballot. The House, constitutionally, has little to do in determining the vote of the states. Its main power on the subject commences when that vote has been determined.

The amendment is objectionable in another point of view. It leaves to the Tellers to settle the disputed question, (without the control of the delegation or the House,) whether the vote or ballot of a state shall result from a bare *plurality*, or depend on a *majority*, of the ballots in each delegation. This is a question, sir, of too much importance to leave for adjustment in such a way. It should be settled by the House, voting *per capita*, and before any result is known, calculated to influence the decision—it should be settled now. For himself, Mr. W. said, having carefully examined the provisions of the constitution relating to the election of President, with a view to understand its literal meaning, as well as to discover its spirit, he entertained no doubt, but a majority of the delegation of any one state was necessary to determine its vote, and that nothing short of it would do. He felt confident the House would so determine.

Mr. HAMILTON spoke in reply, and made some observations to show that his proposal was in conformity with the constitution. He hoped that at least so much of it as provides twenty-four separate ballot boxes would be adopted. He insisted, that it ought to be known publicly and officially, how each state had voted, and regretted the want of this knowledge touching the election of 1801.

Mr. M'DUFFIE advocated the amendment of the gentleman from South Carolina. The question now was, whether the constitution was to be so interpreted as to throw an impenetrable veil over the proceedings of this House, in so important an act as the choice of a Chief Magistrate. He felt bound to protect the honor of his state, and his own honor; but the rule, as it at present stood, rendered it impossible for him to show that he had been faithful to his constituents. Mr. M'D. quoted the constitution, and insisted that the amendment was not inconsistent with it—that the constitution did not require that the vote of the states should be concealed; nor did it ever mean to screen the votes of the delegates themselves from the public scrutiny. In declaring that the votes should be by states, it meant no more than that all the states should have an equal voice. It directed not that they should vote by states, but that they should be counted by states. If it happened that some of the states had only one delegate, that did not alter the requirements of the constitution, nor the propriety of the plan proposed by his colleague. The constitution would still be obeyed. He had no suspicion that the gentleman from Delaware, or any other of those gentlemen who stood alone in representing states, had any wish to conceal the vote that they should give, and he expressed a hope that they would support the amendment.

Mr. COOK, of Illinois, disclaiming all wish to have his vote concealed, was yet opposed to the adoption of the amendment now proposed, which he considered as striking a deadly blow at the constitution. A fundamental principle of that instrument was, that the Legislative and Executive Departments should be kept entirely separate. While, on the one hand, the President was protected from having an improper influence exerted over him by members of this body, it was proper, on the

other hand, that the members of this House should be protected from his resentment, arising from a knowledge that any particular portion of them were opposed to his election. It was not proper that the President should know officially from whence his power was derived. He should receive it from the whole people, and exercise it alike for the good of every portion of them. When the constitution was revised in 1801, this great fundamental principle was preserved untouched. The rule proposed by the gentleman from South Carolina was calculated to render the Chief Magistrate the President of a party, not the President of the nation. The practical tendency was to array some of the states against the President, and the President against them, to cherish the seeds of faction, and to give to party spirit still greater bitterness. It was the duty of the House to be umpires, not agitators—to pacify the nation, not to irritate it.

Mr. WRIGHT again spoke in opposition to the amendment. He had supposed, he said, that no one could have doubted that the constitution required only one vote for each state, instead of one for each member of the House—in the present case twenty-four ballots instead of two hundred and thirteen; and he had supposed it equally clear, the framers of the constitution never contemplated that the proceeding should stop the moment you had ascertained whether the state intended to vote, before the ballot or vote was prepared and deposited; but in this he found himself mistaken. He should despair of removing those doubts, and would forbear further argument as to it. It is urged that the plan proposed by the rule makes the proceedings among the members of the states secret, and that you have no way to find out how each man voted. Why should that be known? What good could result from it? Does the constitution authorize you to require publicity in this proceeding? I think not. Individually, I have no desire to keep my vote secret—I am willing to proclaim it to the world. The gentleman from Illinois (Mr. Cook,) has presented to you, much better than I could do, some of the principles which govern elections by ballot, and urged some forcible reasons why the votes should be secret. I agree with the gentleman in the views he has submitted. The requisition upon a voter by ballot, to endorse his name on the ballot, or to rise when about to vote, and proclaim for whom he voted, would entirely defeat the object of voting by ballot, and break down all the guards the constitution has established to protect the elector in the free enjoyment of this right.

Mr. STEWART, of Pennsylvania, regretted that time was not allowed more maturely to examine so important a proposition as that now before the House, before it was voted on. From the short consideration he had been able to give it, he could not perceive that it was inconsistent with the constitution, and he should vote for it because he perceived that its object was to remove every thing like secrecy from the transaction which was approaching. It was well known that the proceedings of this House on that occasion would be regarded by the people with suspicion. Was it a likely way of removing this to throw a mantle of secrecy over its proceedings? Was not this the way to set the tongue of slander in motion? When an allegation was made, affecting the purity of any individual, would they be removed by his skulking and shrinking from observation? Would not this rather rivet the suspicion? If a man was charged with theft, was it a way to remove the charge, if he shut his door, and refused all admittance and observation? But, if he threw open the suspected place, invited observation, and displayed a frank, open, and candid deportment, the report would be disbelieved. So long as shadows, clouds, and darkness, were suffered to rest on any of the doings of this House, the suspicions of the people would only be fixed and confirmed. With a view, however, to the further examination of the amendment, he moved that the House adjourn.

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This motion was negatived by a large majority.

Mr. STEWART then demanded, that, when the question was taken on the amendment, it should be taken by yeas and nays. The House refused to order them.

The question was then put on Mr. HAMILTON'S amendment, and decided in the negative. Ayes 52—Noes 115.

And the rule, as above stated, was agreed to.

The remaining rules were then successively read, and adopted, as follows:

"6th, All questions arising after the balloting commences, requiring the decision of the House, which shall be decided by the House voting per capita, to be incidental to the power of choosing a President, shall be decided by states, without debate; and, in case of an equal division of the votes of states, the question shall be lost.

7th, When either of the persons from whom the choice is to be made, shall have received a majority of all the states, the Speaker shall declare the same, and that that person is elected President of the United States.

8th, The result shall be immediately communicated to the Senate by Message; and a committee of three persons shall be appointed to inform the President of the United States, and the President elect, of said election."

And then the House adjourned.

IN SENATE—TUESDAY, FEBRUARY 8, 1825.

#### ELECTION OF PRESIDENT, &c.

The committee on the part of the Senate, appointed to join such committee as might be appointed on the part of the House of Representatives, to ascertain and report a mode of examining the votes for President and Vice President of the United States, and of notifying the persons elected of their election, report, in part, the agreement of the Joint Committee to the following resolution:

"Resolved, That the two Houses shall assemble in the Chamber of the House of Representatives on Wednesday, the 9th day of February, 1825, at 12 o'clock; that one person be appointed teller on the part of the Senate, and two persons be appointed tellers on the part of the House, to make a list of the votes as they shall be declared; that the result shall be delivered to the President of the Senate, who shall announce to the two Houses, assembled as aforesaid, the state of the vote, and the person or persons elected, if it shall appear that a choice hath been made agreeably to the Constitution of the United States, which announcement shall be deemed a sufficient declaration of the person or persons elected, and, together with a list of the votes, shall be entered on the Journals of the two Houses.

[The committee which made this report consisted, on the part of the Senate, of Mr. TAZEVELL, Mr. VAN DYKE, Mr. KING, of Alab.

On the part of the House of Representatives, Mr. TAYLOR, Mr. ARCHER, Mr. THOMPSON, of Pa.]

Mr. TALBOT suggested some difficulty in the order of proceeding recommended by the committee, and Mr. HOLMES, of Maine, proposed some amendment, but which he subsequently withdrew. These suggestions gave rise to some discussion of the subject, in which Messrs. HOLMES, of Maine, TALBOT, TAZEVELL, LOWRIE, BARBOUR, JOHNSON, of Ky. KING, of Alab. and VAN DYKE, participated.

Mr. TAZEVELL went, at some length, into an explanation and justification of the course adopted by the committee. In some points, in which the committee on the part of the Senate would have preferred a different arrangement, they were overruled by the committee on the part of the other House, which had its rights as well as the Senate. The mode reported by the committee

was precisely, however, the same as that adopted by the Senate, and agreed on by the two Houses, on similar occasions, from the year 1805 to 1817, inclusive.

Mr. EATON then moved to add the following as an amendment:

"If any objection shall arise to the vote or votes of any state, it shall be filed in writing and entered on the Journals of the Senate and House of Representatives; but the two Houses shall not separate until the entire votes are counted and reported, which report shall be liable to be controlled and altered by the decision to be made by the two Houses, after their separation, relative to any objections that may be made, and entered on the journals, provided no objection taken shall be considered valid unless concurred in by the two Houses."

This amendment was opposed by Mr. HAYNE and Mr. VAN BUREN, on the ground that it was now too late to attempt to provide in anticipation for such an occurrence; that the Senate had, at the last session, passed a bill providing for every possible contingency for which the Constitution prescribed no rule, which bill the House of Representatives had not acted on; that, therefore, if any difficulty should arise on the present occasion, the Senate could not be reproached for it; that as it was now too late to expect the two Houses to concur in any regulations of the kind, in time for the government of the proceedings to take place to-morrow, it was better to leave the remedy to be provided for in any case of difficulty that might unexpectedly arise, &c. &c.

Mr. EATON replied, and urged the necessity of making an effort to provide for possible difficulty before hand, &c.

The question was then taken on his amendment, and negatived without a division; and

The report of the committee was concurred in.

Mr. TAZEVELL was appointed teller on the part of the Senate.

#### HOUSE OF REPRESENTATIVES.—SAME DAY.

Mr. TAYLOR, from the Joint Committee, appointed to consider the mode of counting the votes for President and Vice President of the United States, made a report, in part; which was read.

[The report is the same as that stated above in the Senate proceedings.]

The House agreed to the resolutions reported, and Mr. P. P. BARBOUR and Mr. TAYLOR were appointed tellers according thereto.

#### CHE-APPEAKE AND OHIO CANAL.

Mr. MERCER moved that the bill to confirm an act of the General Assembly of Maryland, confirming an act of the General Assembly of Virginia to incorporate the Chesapeake and Ohio Canal Company, be taken up.

The motion prevailed—and the bill was taken up.

Mr. COCKE observed, that he considered it dangerous to take up a bill of such importance, and pass it at once to a third reading, without due consideration, and intimated his belief that the passage of the bill would, without doubt, be the precursor of a demand for a large appropriation of money for the object embraced by it. Mr. C. concluded, by moving to refer the bill to a committee of the whole for further consideration.

After a few observations from Mr. MERCER, denying that this bill was of any more importance in principle than other acts which had been passed as matter of course, such as those authorizing Turnpikes to be continued within the District, after passing the line from Maryland and Virginia, &c.

The question was taken on committing the bill to a committee of the whole, and decided in the negative.

After a few words between Mr. MERCER, Mr. LATIROP, and Mr. McKIM, as to the phraseology of the section—

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*Chesapeake and Ohio Canal.—Military Appropriations.*

[H. of R.]

Mr. RANKIN, of Mississippi, rose, in opposition to the bill, as proposing to accomplish the object of it in the most exceptionable form. He believed the people of the United States were ready to go into a system of internal improvements, and there were two modes in which that object might be effected. The first was by the Government's aiding individual efforts, by subscriptions to stock, where a measure was of such a kind that the individuals could accomplish it themselves. The other was that, where individuals were incompetent to an object by their own private resources, the Government should take that design wholly into its own hands, and effect it by the public means. But the course proposed by the present bill was neither the one nor the other of these. It is a *compound* measure, between the United States, Virginia, and Maryland, who are all equally parties to it.

The gentleman from Virginia had said, that the object of this bill is only to permit the cutting of a Canal through the District of Columbia. But this, Mr. R. said, was not all. The bill pledged the sanction of the United States to the Canal through its whole course. The Government would be committed by it to go quite through to the Ohio. The authority of this Government is asked, in connection with that of Virginia and Maryland, for a chain of Canals from the Chesapeake to Lake Erie. The Government had already done much. Surveys, plans, and estimates had been made—and in every report on the subject, this Canal had been selected as one of the most important objects. Why should it be put into the hands of Companies, when the Government was already doing every thing for it? From considerations of this nature, Mr. R. was opposed to the passage of the bill at this time, and moved its reference to a committee of the whole.

Mr. MERCER replied, that he felt satisfied, that, if the honorable gentleman from Mississippi had devoted as much attention to this object, as he was in the habit of devoting to those which emanated from that committee of which he was the distinguished chairman (Committee on Public Lands,) he could not have so much mistaken the nature and object of the bill. The United States were called on to assent to the cutting of the Canal through the District of Columbia, where it was to terminate; in the same way as the state of Delaware or Maryland would have been called on had it terminated in either of them. The assent of each must be given to the same object, as far as its territory was intersected, and that assent was as necessary for a Canal of two miles long, as it would be for one of two thousand. It had been a question in the Convention of respectable gentlemen which assembled in this City some eighteen months ago, whether it was best to call on the states of Virginia and Maryland, for an appropriation of money, or to adopt the present course. Virginia was known to have constitutional scruples, adverse to the measure. There were but slender funds in Maryland, and if they called on the General Government prematurely for an appropriation for the object, they would only defeat it. They therefore determined to call on those two states, and on the General Government, merely to assent to the act of incorporation, without asking for any appropriation of money whatever. If the bill had not been thus guarded, it would never have passed the Legislatures of Virginia or Maryland. It came before Congress with the sanction of both those states, to receive its sanction in its capacity of the Legislature for the District of Columbia. The bill, therefore, was not what it had been represented to be by the gentleman from Mississippi. That gentleman had proposed that further plans and estimates should be obtained previously to passing such an act. Does not the gentleman know, said Mr. M. that the General Government has no power over a great part of this Canal? That, so long ago as 1783, in the

days of General Washington, a Company was incorporated, entitled the Potomac Company, to whom the control of the undertaking was given? It is now proposed to organize another Company, with the consent of the old Company, for the purpose of carrying the design further than was then contemplated. Even the state of Virginia had so far recognized the authority of the Potomac Company, that it asked the consent of that Company before it would incorporate the Shenandoah Company. The gentleman was mistaken in supposing that the General Government had ordered any surveys of the Potomac. That river had already been carefully surveyed by other authority, and there existed no doubt of the possibility of forming the Canal. But did that gentleman ever hear of surveys being made by a Turnpike Company before the Company was incorporated? Did any body ever hear of such a thing? The Company must first be created, and it is for the purpose of creating it that the present bill has been reported. Gentlemen would have us wait, said Mr. M. for a general system of Internal Improvement. This idea had been near paralyzing the measures improving the country at the present session, and he hoped it would not be suffered to mar this measure. The friends of the Canal might have asked a subscription to the stock of the Potomac Company as already organized, if they had not considered it wiser to take the present course. Mr. M. made some further remarks, in which he contended that there was no difference between incorporating a Turnpike Company, and incorporating a Canal Company. Congress had granted the one through the District without hesitation, and why not the other? He strongly represented the danger of delay, and the anxiety of the many thousands who were concerned in this great undertaking, and anxiously looking for the sanction of Congress. The bill took nothing from the soil, Mr. M. said, but, on the contrary, gave every thing to it.

Mr. STEWART, of Pa. stated that the books of subscription for this Canal, could not be opened until the present act was passed, as no body would subscribe to the Canal before they were sure that Government would permit it to enter the District of Columbia. Nor would Virginia or Maryland do any more without the same assurance. Mr. S. was going on in some general remarks on the importance of the Canal, which the Speaker interrupted, as not being pertinent to the motion for commitment, which is a question not of principle, but as to the mode of proceeding only.

The question was then taken, on referring the motion to a committee of the whole, and decided in the affirmative, 73 to 67.

#### MILITARY APPROPRIATIONS, &c.

The House having resolved itself into a committee of the whole on the bill making additional appropriations for the Military Service, and another for Fortifications—and

The bill for Fortifications being under consideration,

Mr. HAMILTON, as Chairman of the Committee on Military Affairs, moved to insert in the bill the following amendment:

"For the establishment of a school of practice for the Light Artillery, \$9,940."

In support of the amendment—

Mr. HAMILTON, observed, that he had moved the amendment by express direction from the Committee on Military Affairs, in consequence of a reference of the subject by the House to that committee. The communication of the President respecting it, was accompanied by a report from the Department of War, in which the utility and necessity of such a school as that mentioned in the amendment, were strongly urged. The original

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*Military Appropriations.*

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estimate of the sum necessary to carry it into effect, as made by the officer at Fort Monroe, had been \$31,000. But in that sum was included the purchase of land and expenses of the cavalry drill; for the sake of economy, the committee had dispensed with both these, and they now asked less than ten thousand dollars. This was to be applied to the purchase of fifty artillery horses, the equipment of six pieces, and six caissons, forming together what was called a division of artillery. He earnestly and forcibly urged the usefulness of a system of instruction in the management of Light Artillery, an arm of war which was found among the most efficient employed in modern times. He referred to the exploits of Towson, and Archer, to the Battles of Bridgewater and Chippewa, to the French campaigns, and particularly to the battles of Austerlitz, Jena, and Marengo, as furnishing proof of its great effect, and concluded by quoting a communication from the War Department, in which it is especially recommended.

The question being taken on this amendment, it was decided in the negative by a large majority.

Mr. SAUNDERS, of N. C. then moved to amend the bill by appropriating for a fort at Beaufort in North Carolina \$30,000.

Mr. COCKE remarked that he understood this to be a new fortification not proposed before. He thought it was better to finish those already begun than to commence new works. He did not know the necessity of the fort proposed, as there was no report on the subject from the War Department. Neither the Committee of Ways and Means, nor the Committee of Military Affairs, had recommended the measure. It had no other sanction than that of a member in his place. He knew that the waters on that coast were very shallow. He did not know that there were any interests there which peculiarly required protection, and, if there were, he did not know that this fort was calculated to protect them.

Mr. SAUNDERS replied to the objections of the gentleman from Tennessee. He stated the importance of the port of Beaufort: not merely for its geographical situation, but as having been pointed out by the War Department, as a point which required defence. So important was it considered by that Department, that a Board of Engineers was directed to examine it, and make an estimate of the expense of fortifying it. If Congress then intended to go on with a general system of fortification, there could be no objection to the present measure. It was a part of the country which had received but little from the General Government. As to Wilmington, (for which place, also, he intended, if his present motion succeeded, to move an appropriation,) he knew that it was considered by the Government important to protect the trade there, as was proved by the fact, that a fort had formerly been erected at that place, but which was now in ruins. The reason why the measure had not been reported by the Committee of Ways and Means, was, that the report from the Corps of Engineers had not been received in time to be submitted to them; he had, therefore, offered it in his place. But he begged gentlemen to recollect that the fort was not to be erected in his district. He had advocated it simply on the ground of its utility.

The question was then taken on the amendment of Mr. SAUNDERS, and decided in the negative.

Mr. COCKE then observed, that the bill contained an appropriation for continuing the work at the Pea Patch, on the Delaware river. He was aware that there was a report from the Engineer on the subject, and that the House was told that the fort was in progress; so they were told many years since. And, after vast sums had been expended, it was discovered, on examination, that the officer who superintended the work had disobeyed his orders, departed from all the plans furnished him, and, in a word, had spoiled the fort. A court martial

was held on his conduct, and it was pronounced an error in judgment. He wished to know whether the present sum would complete the work, and at what time, and what was its present situation.

Mr. McLANE replied to Mr. COCKE, and referred to voluminous documents, which furnished all the details requested by the gentleman from Tennessee. There was every certainty that the sum now asked for would complete the work. He accounted for the errors which had happened in the estimates of the cost of public works by the infancy of our system of engineering, and asked the gentleman whether it was not common, even in building a house, that was to cost a certain sum, to find, before it was finished, it cost much more than was at first contemplated? And whether it could be expected, that, in an expenditure of \$600,000, minute accuracy in the estimates could always be attained?

The original plan of the work, he said, had been varied. The officer who superintended its direction was inexperienced, and defects had taken place which must now be remedied. We have a report of the Engineer Department, and also an extensive estimate, with details down to ten and twelve dollars, all which was very much at the service of the gentleman from Tennessee. After all, it would be found that the total expense of the work very little exceeded the first estimate.

Mr. COCKE moved to reduce the appropriation for the Indian Department from 95,000 to 75,000 dollars.

Mr. McLANE replied, that the annual appropriation had not been less heretofore than \$95,000. That sum had been always required by the Department, and always granted by the House. At the session before last, the gentleman from Tennessee had inquired of the Department for detailed statements. A minute and extensive report had been made. The subject had been maturely deliberated. The House was satisfied, and had granted the \$95,000. Last session, at the request of the same gentleman, it had been investigated again; the House again granted 95,000 dollars. At the present session, the Committee of Ways and Means had thought it unnecessary to refer to the Department for another statement. The ordinary documents of estimates, &c. were printed, and the gentleman might have access to them. It was easy for the gentleman to rise in his place and ask for the grounds of any estimate submitted, and to say he did not know the reason for this or for that expenditure. Nothing was easier. But he would submit it to the House whether a gentleman was entitled to do so without first showing that he himself had some knowledge of the subject, and assigning some reasons why the estimate was improper. The gentleman had said, the sum is large, and he does not know why it is required. But its necessity has been again and again explained to him.

Mr. COCKE observed, in reply, that he should not have made any remark on this subject, had he not retained some recollection of the report made last year. He remembered that, at that time, there existed what was called a Factory Department, and he had a distinct recollection that, among the expenses charged, was a considerable item for limes, lemons, London Particular, and Teneriffe. He presumed that these articles had since been dispensed with. He remembered also a charge of \$1,000 for a blacksmith. The Committee of Ways and Means at that time assured the House that measures should be taken to lessen the contingent expenses of the Department, and that assurance led him to move the reduction he now proposed. It must be recollected that the present bill does not include the expense of the Indian Agent and all his Clerks. It was very easy for the Chairman of the Committee of Ways and Means, when proposing an appropriation to this House to say the Department asks for it, and that here is the letter from the Head of the Department, as a

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warrant. But answers of this sort gave little satisfaction to his mind. He should never forget the London Particular.

The amendment was rejected.

After these bills were reported to the House—

Mr. HAMILTON renewed his motion for making an appropriation for a school of practice for the Light Artillery, and earnestly pressed it upon the attention of the House.

Mr. ARCHER observed, in support of the amendment, that, when it had been offered in committee, by his friend from South Carolina, it had been voted down without any objection stated. He was confident this could have happened only from the House not considering with proper attention the object presented. When compared with the object for which it was intended, the appropriation was moderate indeed. If we have any military establishment at all, we ought to give it efficiency. And if it was undeniably true that, with respect to the establishment generally, that this could only be done by providing proper instruction, it was true *a fortiori* in respect to artillery.

What was that branch of our army if left without instruction, and what use was there of having artillery at all, and of appropriating for its support, if the men who composed it were wholly unqualified for their duty, from the want of means of instruction? He had said that the sum was moderate. He asked whether any sum could be considered too large with reference to the object. What is the sum asked? Only nine thousand dollars. How is it to be disbursed? In any new salaries, or any increase of pay? No; \$7,000 of it was to be laid out in horses, which, in themselves, would be worth the money, besides furnishing opportunity for instruction, both in artillery discipline and in cavalry drill. The United States would get the value of its money, besides getting that which was invaluable. Could any one doubt the utility of the object? It was recommended by the President of the United States; it was recommended by the War Department; it was recommended by the committee, which is the appropriate organ of this House in relation to Military Affairs. It comes recommended by all who ought to know whether it is proper or not; and, with all this force before them, would the House refuse? Refuse to grant \$9,000 when 7,000 of it was to be invested in property! He trusted not.

The question was then taken on the amendment proposed by Mr. HAMILTON, and decided in the negative—76 to 61.

And the bills were then ordered to a third reading.

IN SENATE—WEDNESDAY, FEBRUARY 9, 1825.

At twelve o'clock, the Senate proceeded to the Hall of the House of Representatives, agreeably to joint resolution, for the purpose of opening and counting the Electoral votes for President and Vice President of the United States.

At half past two o'clock the Senate returned to its Chamber, and then adjourned.

HOUSE OF REPRESENTATIVES—SAME DAY.

The bill making appropriations for the military service of the United States, for the year 1825, was read a third time.

Mr. FORSYTH, of Georgia, said that it was with great reluctance he rose at this late period in the progress of the bill, to object to one item it contained. He regretted that his duty on another committee had caused his being absent when this bill had its second reading yesterday. He had pointed out the objectionable clause to the chairman of the Committee of Ways and Means, and understood him to say, that some explanation should

be made to the House of the grounds on which the item of appropriation to which he alluded had been introduced into that bill; but he had since discovered that he had misunderstood the honorable chairman, who had only engaged that those explanations should be given, if they were required by the House. Mr. F.'s absence yesterday had prevented him from asking the explanation. He referred to that clause of the bill which appropriates 20,000 dollars for arrearages under the treaty with the Creek Indians, of 1804, ratified in 1824, and, also, 1000 dollars for the annuity under said treaty, for the current year—

[Mr. FORSYTH was about to enter upon a full statement of the facts in relation to this subject, with the reasons which compelled him to resist the appropriation, when the Speaker suggested that, on account of the near approach of the hour at which the House would be obliged to go into another business of great importance, the honorable member from Georgia had better move to lay the bill on the table, if he wished it farther amended.]

Mr. FORSYTH accepted the suggestion of the Speaker, and made the motion that the bill lie for the present on the table.]

The bill was ordered to lie on the table accordingly. On motion of Mr. TAYLOR, it was

*Ordered*, That, when the members of the Senate appear, this day, in the Chamber of the House of Representatives, the President of the Senate shall be introduced by the Speaker to a seat in the Speaker's chair, and the Senators shall be invited to occupy the seats assigned them in front of the chair.

#### THE INVESTIGATING COMMITTEE.

Mr. P. P. BARBOUR, from the Select Committee on that subject, made the following report:

The select committee, to which was referred the communication of the Speaker, of the 3d inst. report:

That, upon their first meeting, with a view to execute the duty imposed upon them by the House, they directed their chairman to address a letter to the Hon. GEORGE KREMER, informing him that they would be ready, at a particular time, therein stated, to receive any evidence or explanation he might have to offer, touching the charges referred to in the communication of the Speaker, of the 3d inst.; their chairman, in conformity with this instruction, did address such a letter to Mr. KREMER, who replied that he would make a communication to the committee; accordingly, he did send to them, through their chairman, a communication, which accompanies this report, marked A, in which he declines to appear before them, for either of the purposes mentioned in their letter, alleging that he could not do so, without appearing either as an accuser or a witness, both of which he protests against. In this posture of the case, the committee can take no further steps. They are aware that it is competent to the House to invest them with power to send for persons and papers, and by that means, to enable them to make any investigation which might be thought necessary; and if they knew any reason for such investigation, they would have asked to be clothed with the proper power; but not having, themselves, any such knowledge, they have felt it to be their duty only to lay before the House the communication which they have received.

#### A.—(MR. KREMER'S LETTER.)

GENTLEMEN: I have received your note of yesterday, in which you inform me that you will meet at 10 o'clock this morning, and will then be ready to receive any evidence, or explanation, I may have to offer, touching the charges referred to in the communication of the Speaker, of the 3d inst. Placed under circumstances unprecedented, and which I believe not only interesting to my-



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self, but important, as connected with the fundamental principles of our Government, I have reflected, with much deliberation, on the course which duty to myself, and my constituents required me to adopt. The result of this reflection is, that I cannot, consistently with a proper regard to those duties, assent to place myself before your committee, in either of the attitudes indicated in your note. The object of the committee does not distinctly appear from your note, but I may infer from its contents, connected with the extraordinary and unprecedented proceedings in this case, that it is to hold me responsible, through a committee of the House of Representatives, for a letter, dated the 25th of January last, addressed to the Editor of the *Columbian Observer*, and published in his paper of the 28th, which was intended to communicate, through that channel, information which I deemed interesting to my constituents, and very important to be known to the whole American people at this peculiar crisis. Thus viewing the subject, I cannot perceive any principle of power in the Constitution, which can give the House of Representatives, and, consequently, a committee created by it, jurisdiction over me as the writer of that letter; it neither involves a question of contempt of the House, nor an impeachment of an officer of the Government under the Constitution; and I can discover no authority by which the House can assume jurisdiction in such a case. If the authority of the House extended to acts of this kind, no limitation could be prescribed to its power, and it may reach the publisher as well as the writer, and extend to every member of the Government, as well as the Speaker of the House of Representatives. But it is not only the unconstitutionality of the power which forbids me from appearing before you; placed as I am, I cannot but perceive the dangerous consequences, as well as its unconstitutional character.

Should I yield to such authority, I would be made amenable to a tribunal, which, thus constituted, has no prescribed limitation to its rules of proceeding, and which is alike unlimited in the nature and extent of the punishment it may inflict—nor can I be ignorant of the fact, that this body, thus unlimited in its rules, and in the extent of its powers, is at all times, but more especially at a crisis like the present, subject, by its very constitution and the nature of its functions, to be acted upon by some of the most powerful passions that actuate the human breast, which unfit it to perform in that cool and deliberate manner, the duties which properly belong to a court and jury. If it should be considered as proper that members be held responsible here for the communication of their opinions out of the House, on public men and public affairs, it would be much more safe that they should be placed at once under the operation of the sedition law; and, so far as the members of this House are concerned, the repeal of that famous law might be considered as a calamity, rather than a blessing. Thus regarding the constitutional power of the House, and the nature of that which is proposed to be exercised in my case, I have determined, under a deep sense of duty to myself and my constituents, not to submit to a procedure fraught with such dangerous consequences. I therefore protest most solemnly against the assumption of any jurisdiction, either by the committee or the House of Representatives, that shall jeopardize my right to communicate freely to my constituents whatever I may believe necessary for the public good. It is not my intention, in the slightest degree, to impeach the character either of the committee or the House, for which I have the greatest respect, and the authority of which, within its constitutional sphere, I regard it my pride and my duty to sustain. In refusing to submit to the authority of the House, as the writer of the letter before alluded to, it may be proper to remark, in explanation of

the admission which I may seem to have made of its jurisdiction. Whatever assent I may have given, was done hastily, relying on the conscious rectitude of my conduct, and regarding my own case without having reflected duly on the dangerous principles involved in the proceeding, and cannot therefore be considered as a waiver of my right. The committee will observe, that the honorable Speaker, in his card, had chosen to make this matter a personal question with the then unknown writer of the letter. After due reflection, I determined at all hazards not to conceal the fact of being the author of the letter, and did not expect, by this disclosure, to enable the honorable Speaker to place me under the jurisdiction of the House. His appeal was sudden and unexpected, and, if any admission was made, without due regard to all the circumstances and principles of the case, it could be no matter of surprise. In declining the jurisdiction of the committee and the House, I feel the authority of another tribunal, before which I shall cheerfully appear, and bring forward, forthwith, those facts and circumstances, which, in my opinion, fully authorizes the statements contained in my letter. These I shall spread before my constituents, to whom I am amenable for all my conduct while I am honored with a seat in this House, and I shall never hesitate, when the correctness of my conduct is brought in question, to attempt my vindication before them; and, while sustained by them, and the conviction of my own conscience, I shall never be deterred from the performance of my duty here or elsewhere. In presenting my protest, I have gone on the supposition that it was the intention of the House, in raising a committee, to hold me responsible to its jurisdiction, as the writer of the letter which has caused the present proceeding. There is, however, another view of the subject, which deserves notice. It may be inferred, from the note of the committee, that it is not so much its intention, in requesting my attendance, to take jurisdiction over me, as to avail themselves of my testimony, which the Speaker has requested to have investigated by the House. In this view, my objection to attending is no less decisive than the one already considered. It would always afford me pleasure, when imperious duty did not forbid, to give all the information in my power to an investigation, which may be deemed by the House important to the character of any of its members; but, circumstanced as I am, it is manifest, if I should appear before the committee, I must be considered not so much in the light of a mere witness as that of an accuser, presenting charges against the Speaker to the House, and those charges not the specific statements contained in my letter, but the more general and indefinite ones into which the Speaker has sought an inquiry. It is manifest that the difference will be great between the attitude in which I should thus be placed and the one in which I now stand, and which duty to myself and my constituents forbid me to abandon. In coming to this determination, I am not governed by any disposition to retract or modify any thing contained in my letter, which was written under a conviction of its being true and important to be known. But there are many things which we are bound to communicate to those we represent, which prudence and duty would both forbid being presented to the House, in the form of accusations. This will be manifest when we reflect that even, this House may not at all times be free from the vice of passion or the taint of corruption. Those who have read the history of human frailty, will require no proof of this assertion. If this view be just, which, I think, cannot be questioned, it must be manifest that a member of this House may be placed under such circumstances as to make it his highest duty to speak freely and fully, even of the House itself, to those he represents, when it would be madness and folly to present charges for

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their investigation. If such be the obligations of duty in extraordinary cases, the mere dictates of prudence will, in many instances, compel him to abstain from presenting to the House, for investigation, facts which might implicate the conduct or motives of any of its members, when they ought to be freely communicated to his constituents.

In the present case, although I feel myself justified, as the writer of the letter, I feel myself bound, both by prudence and duty, not to appear in the character of an accuser of the Speaker upon charges not my own, but those which he has requested to be investigated. I need not advert to circumstances which render it peculiarly improper at the present time. The deep excitement which the important crisis has produced, the unequal contest between an humble member on the floor, and the Speaker of the House, are themselves circumstances which cannot be overlooked in coming to the conclusion that the issue should be left before the American people, or the ordinary tribunals of the country; and I therefore protest against the proceedings in this view, as well as against the power of the House to exercise jurisdiction over me, as being equally calculated to restrain the exercise of my just rights, in an unconstitutional manner.

I have the honor to be, with great respect,

Your obedient servant,

GEO. KREMER.

Washington, Feb. 8th, 1825.

The report and letter were read, and, on motion of Mr. BARBOUR, were ordered to lie on the table, with the accompanying papers, and to be printed.

On motion of Mr. TAYLOR, it was

Ordered, That a message be sent to the Senate, that this House is now ready to receive them in pursuance of the resolution of the two Houses, of yesterday, to the end that the President of the Senate, in the presence of the Senate and House of Representatives, may open the certificates of the votes of the electors of the several states in the choice of a President and Vice President of the United States, and that the same may be counted; and that the Clerk do go with said message.

#### ELECTION OF PRESIDENT.

At twelve o'clock, precisely, the Members of the Senate entered the Hall, preceded by their Sergeant-at-Arms, and having the President of the Senate at their head, who was invited to a seat on the right hand of the Speaker of the House.

Seats were then assigned the Senators, who took their seats together, in front of the Speaker's chair, and toward the right hand of the entrance.

The President of the Senate, (Mr. GAILLARD,) then rose, and stated that the certificates, forwarded by the Electors from each State, would be delivered to the Tellers.

Mr. TAZEWELL, of the Senate, and Messrs. JOHN W. TAYLOR and PHILIP P. BARBOUR, on the part of the House, took their places, as Tellers, at the Clerk's table. The President of the Senate then opened two packets, one received by messenger, and the other by mail, containing the certificates of the votes of the State of New Hampshire. One of these was then read by Mr. TAZEWELL, while the other was compared with it by Messrs. TAYLOR and BARBOUR. The whole having been read, and the votes of New Hampshire declared, they were set down by the Clerks of the Senate and of the House of Representatives, seated at different tables. Thus the certificates from all the States were gone through with.

The Tellers then left the Clerk's table, and presenting themselves in front of the Speaker, Mr. TAZEWELL delivered their report of the votes given; which was then handed to the President of the Senate, who again read it to the two Houses, as follows:

	For President.				For Vice President.			
	John Quincy Adams.	William H. Crawford.	Andrew Jackson.	Henry Clay.	John C. Calhoun.	Nathaniel Macon.	Andrew Jackson.	Nathan Sanford.
Maine,	9	0	0	0	9	0	0	0
N. Hampshire,	8	0	0	0	7	0	1	0
Massachusetts,	15	0	0	0	15	0	0	0
Rhode Island,	4	0	0	0	3	0	0	0
Connecticut,	8	0	0	0	0	0	8	0
Vermont,	7	0	0	0	7	0	0	0
New York,	26	5	1	4	29	0	0	7
New Jersey,	0	0	8	0	8	0	0	0
Pennsylvania,	0	0	28	0	28	0	0	0
Delaware,	1	2	0	0	1	0	0	2
Maryland,	3	1	7	0	10	0	1	0
Virginia,	0	24	0	0	0	24	0	0
North Carolina,	0	0	15	0	15	0	0	0
South Carolina,	0	0	11	0	11	0	0	0
Georgia,	0	9	0	0	0	0	0	9
Kentucky,	0	0	0	14	7	0	0	7
Tennessee,	0	0	11	0	11	0	0	0
Ohio,	0	0	0	16	0	0	16	0
Louisiana,	2	0	3	0	5	0	0	0
Mississippi,	0	0	3	0	3	0	0	0
Indiana,	0	0	5	0	5	0	0	0
Illinois,	1	0	2	0	3	0	0	0
Alabama,	0	0	5	0	5	0	0	0
Missouri,	0	0	0	3	0	0	3	0
Total,	84	41	99	37	182	24	13	30

The President of the Senate then rose, and declared that no person had received a majority of the votes given for President of the United States; that ANDREW JACKSON, JOHN QUINCY ADAMS, and WILLIAM H. CRAWFORD, were the three persons who had received the highest number of votes, and that the remaining duties in the choice of a President now devolved on the House of Representatives. He further declared, that JOHN C. CALHOUN, of South Carolina, having received 182 votes, was duly elected VICE PRESIDENT of the UNITED STATES, to serve for four years from the 4th day of March next.

The members of the Senate then retired.

The SPEAKER directed the roll of the House to be called by States, and the members of the respective delegations to take their seats in the order in which the States should be called, beginning at the right hand of the Speaker.

The roll was called accordingly, when it appeared that every member of the House was present, with the exception of Mr. GARNETT, of Va., who was known to be indisposed at his lodgings, in this city.

The delegations took their places accordingly, ballot boxes were distributed to each delegation, by the Sergeant-at-Arms, and the Speaker directed that the balloting should proceed.

The ballots having all been deposited in the boxes, the following Tellers were named by the respective delegations, being one from each State in the Union:

Mr. Cushman,	Mr. Hooks,
Livermore,	Campbell,
Webster,	Forsyth,
Eddy,	Trimble,
Tomlinson,	Allen, of Tenn.
Back,	Sloane,
Taylor,	Livingston,
Condict,	Rankin,
Ingham,	Jennings,

H. of R. &amp; Sen.]

Election of President.—On the Judiciary.

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Mr. McLane,  
Kent,  
Randolph,

Mr. Cook,  
Owen,  
Scott.

Mr. WEBSTER, of Massachusetts, was appointed by those Tellers who sat at one table, and Mr. RAN DOLPH, of Virginia, by those at the other, to announce the result of the balloting. After the ballots were counted out, Mr. WEBSTER rose, and said—

“Mr. Speaker. The Tellers of the votes at this table have proceeded to count the ballots contained in the box set before them. The result they find to be, that there are—

For JOHN QUINCY ADAMS, of Massachusetts, 13 votes,  
For ANDREW JACKSON, of Tennessee, 7 votes,  
For WILLIAM H. CRAWFORD, of Georgia, 4 votes.”

Mr. RANDOLPH, from the other table, made a statement corresponding with that of Mr. WEBSTER, in the facts, but varying in the phraseology, so as to say that Mr. Adams, Mr. Jackson, and Mr. Crawford, had received the votes of so many states, instead of so many votes.

The SPEAKER then stated this result to the House, and announced that JOHN QUINCY ADAMS, having a majority of the votes of these United States, was duly elected President of the same, for four years, commencing with the 4th day of March next.

On motion of Mr. TAYLOR, of New York, a committee was ordered to be appointed, to notify the President of the United States, and the President elect, of the result of the ballot.

And then the House adjourned.

[When the fact of Mr. Adams having 13 votes was announced by the Tellers, some clapping and exultation took place in the galleries, and some slight hissing followed. The House suspended its proceedings until the galleries were cleared.]

#### IN SENATE—THURSDAY, FEBRUARY 10.

The Senate proceeded, as in committee of the whole, to the consideration of the bill “to amend the Judicial system of the United States, and to provide for three additional Circuit Courts.”

Mr. R. M. JOHNSON, of Kentucky, began by saying he should be as brief as it should be in his power, in the remarks he had to offer, on the explanation of the bill, and in support of the measure which it proposed. The object of the bill, said Mr. J. embraces the creation of three additional Circuits and the appointment of three additional Circuit Judges, to be members of the Supreme Court of the United States. Should the bill pass into a law, it will, of course, increase the number of the Judges of that court, from seven to ten. The present judicial arrangement leaves six Western states without a representative in the Supreme Court, and without an atom of advantage from the circuit system. As to the seventh circuit, embracing Ohio, Kentucky, and Tennessee, this may be viewed as in a similar condition, since the duties of the Circuit Judge, requiring him to perform the annual round of more than 3,000 miles, leaves to him very little leisure for the investigation and reflection which are essential to correctness and despatch in judicial proceedings. The nine Western states have a deep interest in the present question. They may be considered as equally, I might say unrighteously, deprived of those immunities which every other section of our confederacy has the felicity to share.

Sir, said Mr. J. the present proposition rests not alone on considerations of expediency, but upon the principles of equal rights and impartial justice. The circumstances of the nine Western states demand the unhesitating interposition of Congress. What room can be left for equivocation and doubt, when nothing is solicited but what is enjoyed by other portions of the community? It will be recollected, that under the present unequal system, in all causes decided in the District Courts, the

opinion of a single Judge is final, where the sum involved, inclusive of costs, amounts to no more than two thousand dollars. A decision of this nature is conclusive in most cases in which the great mass of the community are interested. Whatever may be the virtue or talents of an individual Judge, we possess no sufficient guarantee for the satisfactory administration of justice, without which a free, a gallant, and enlightened public can never be content. No person, sir, is less disposed than I am to detract from the merits of our Judiciary; but other plans are contemplated. A radical change in our judicial system, proposed by some members of the Senate, is urged as a good reason for delay.

This radical change, I believe, sir, has been contemplated for many years, and yet we discover no rational prospect of success; it is intolerable that nine states in our Union are to be disfranchised, laboring under the inequality and disadvantages of having a system confined only to a portion of our vast and growing population. The change spoken of is designed to render the Supreme Court independent of circuit duties, and to locate its officers within a range of ten miles square. Three years ago, I submitted a proposition, that the Judges of this Court be requested to communicate to us a full report relative to the merits and disadvantages of the present system. This request was denied me. Fears were entertained, lest the views of this distinguished tribunal might influence the course of Congress. I entertained no such apprehensions. I had sufficient confidence in my own judgment to believe that I should discharge the duty I owe to my country, and I possessed equal confidence in the talents, integrity, and experience of the venerated judges themselves. I introduced this self-same bill, the last session; and yet, it was impossible to procure its being acted upon, although the Senate was in session nearly six months. We were told that there was safety in delay. The contemplated change was again pressed upon us as a reason why this system should not be adopted. I had always been of opinion that delay in the operation of justice was not only unnecessary, but dangerous. At a very early period, during the present session, I presented the subject for the serious consideration of the Senate, and we are still informed that a little delay will not materially affect the question. It must be put off until the next session. Thus we dance round the circle of the year—session after session succeeds, and the Western States utter the voice of discontent, and call for their reasonable rights, unheard or unregarded. Sir, I contend that it is time, high time, that something should be done.

The measure proposed plainly involves the comparative merits of the two plans that are suggested. My wish, and it is the result of the most deliberate consideration, is to increase the judicial circuits so as to embrace the whole of our Union, and to give to the West their due representation in the Supreme Court of the United States; this will augment the number of the supreme judges to ten. The other plan is, to separate circuit duties from those of the Judges of the Supreme Court, and to concentrate the latter in their chamber in the Capitol. Provided the jurisdiction of the Supreme Court, and that of the inferior courts of the Union, were confined to objects purely national, I should realize much less difficulty, in the plan of having a few judges to constitute a Supreme Court, and to restrict them exclusively to the discharge of such high duties as become an appellate tribunal, except where the constitution itself has invested them with original jurisdiction. Perhaps I should concur in it. I refer in this remark to such cases as arise out of the Laws of Nations, as relate to treaties with foreign powers, the revenue laws, the concerns of the admiralty, maritime causes, and all controversies of a similar character. But so long as the jurisdiction of the Federal Courts extends to cases—innumerable cases of a municipal character, involving state-laws, state-constitutions, and, in fact the control

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of state-sovereignty, I discover more propriety and more security in augmenting the number of the Judges, and committing to them the discharge of circuit duties, by means of which they mingle with those whom they serve, and learn the manners, habits, and feelings of the people, and acquire, to an enlarged extent, the peculiar policy of the several states, their laws and local institutions, than in any other arrangement. I have lately perceived, more sensibly than ever, the force of this consideration. The state from which I have the honor of appearing as a representative, has become a subject of animadversion with some enlightened individuals, with whom I have conversed, who are yet almost totally ignorant of facts in relation to ourselves. Of the details of the history of our country they appear to know nothing; and yet, influenced by vague rumor, they have entertained unjust, unpardonable impressions, which nothing but a sound knowledge of the nature and transactions of our local policy, a policy which has for several years agitated our people, can destroy.

No sentiment in morals or in politics is more universally correct than that we were never more usefully employed, than when employed in the imperious duties which concern ourselves, leaving to others their own concerns. In this discussion we are unavoidably impressed with the extent of the judicial power of the United States. A line inserted in our Constitution, perhaps at the instance of a single individual, which, at the time of its formation, was introduced without attaching to it any importance, has given to the Federal Judiciary the power of controlling the sovereignty of the states, just in the same manner as individuals, co-partnerships, town-corporations, or any similar legal associations, are controlled. The line which I refer to, contains indeed an abstract truth which should be confided to the states. It states that contracts shall not be impaired. Who would have conjectured that so simple a position should have created so alarming an authority? Whilst we have settled most of the great fundamental principles of our free and happy governments, whether state or federal, the words to which I allude have been the wand of the magician in the hands of the General Government. It has put every element into motion. No two persons can agree as to its meaning. Former judicial decisions have been disregarded, doctrines consecrated by the march of time, and by the sober suggestions of reason, have, by this new principle found in the Constitution, been wholly overturned. It has agitated the states, and brought into collision all the Departments of Government. At the novel doctrine, the people have been alarmed, society convulsed, and inquiry receives no satisfaction when she asks what means this *line* in the Constitution of the United States. Not content with the peace, the happiness, the liberty which we enjoy, we are by nature so belligerent that we are always searching after some new occasion for contention. We have found the source of construction construed in these cabalistic, these unfortunate words of the Constitution—that no state shall impair the obligation of contracts. This has laid a broad foundation for judicial construction, that, according to the views of the judiciary, it is in the power of the tribunals of the country, to arraign, prostrate, and annul, not only a single law, but whole systems of laws, not laws of yesterday, but laws sanctioned by experience, consecrated by all the departments of state legislation, and acquiesced in by all good citizens. Witness its unhappy decision which abrogated the occupying claimant laws of Kentucky; laws which had existed in full force and virtue for a term of twenty-five years. I am informed, sir, that questions are impending before the Supreme Court, which involves the constitutionality of almost every law of our state which has been passed during the last four or five years. The act which has abolished imprisonment for debt has not been excluded, an act, which, while time exists, will stand

an imperishable monument of the fame of those who passed it.

If the Federal Constitution had contained the abstract proposition, that the states shall do no wrong, and it were the opinion of the Judges that such a declaration has vested them with power to abrogate laws and pronounce them unconstitutional, because the law was not wise or expedient, we cannot conceive of a much greater calamity arising from such a state of things than that which has already sprung up, and is likely to spread its destructive waters on every side, from the words to which we allude. Both kind of expressions leave, or rather present to the mind a field of speculation and of construction, alarming to every heart that beats with the love of liberty. The exercise of undefined power always terminates in tyranny. In both cases the Judges would be left to their own conceptions as to what would be wrong under one set of words, and what would impair the obligation of contracts, as composing the other. The ocean of uncertainty is here presented, and we are launched upon it without compass, rudder, or pole-star. I fear, from the examples we have had of the fluctuating opinions of Judges and jurists on the words in question, that to fix definite limits to their precise import, will be as difficult and dangerous as if right and wrong were to be determined, not by a man's own conscience, but by a bench of administrators of public law.

It is no question with me, in this discussion, whether the people in the exercise of their legitimate power have erred or not. I contend they have a right to err, without any responsibility excepting to the suggestions of conscience, and the throne of Heaven. But no agent or Department of our Government is independent. All public officers are the offspring of the people, and accountable to them. Search the historical records of Greece, of Rome, and of England, three great powers, which at certain periods of their history, have enjoyed a high degree of liberty, and you will find no safety, no curb to despotic aims, no restraint to tyranny, but on the principle that the authority of all officers of Government is subject to the will of the people. Their responsibility ought ever to be visible, tangible, controllable. I care not what the patriotism, what the virtue, what the talents of particular individuals may be found, no body of men ever has existed, or ever will exist, who have not forged or are forging chains, who have not dug or are not digging out dungeons, for the fair form of Liberty, that are not responsible to the will of the people. In a Government such as ours, we must not contemplate the people as a "swinish" multitude. They are entitled to confidence; they are to be regarded as a nation virtuous, high-minded, desirous of doing right, lovers of freedom, jealous of their privileges; a people who, in defence of their rights, are prepared to jeopardize their lives, their fortunes, and their sacred honor: such should be our estimates. It is preposterous, it is unavailing, to pretend that the people cannot be trusted; sir, they can be trusted, while no other body can. I do not contend that they are perfect, either as individuals, or as a body aggregate; but, I do affirm that they have a higher claim to respect than any Public Officer, or any Public Department. This is the theory of our Constitution, and with it our practice ought to coincide.

Impressed with these sentiments, I proceed to say a few words on our judicial tenure. At this time, a general progress of improvement in science and literature is manifest. No science has received more light, none has been brought more fully to the ordeal of sober investigation, than the science of Government. Liberal principles are increasingly known and welcomed by the whole of the civilized world. Nothing but swords and spears, which, I am confident, are destined to become plough-shares and pruning-hooks, obstruct their universal diffusion and triumph. In these United States, the just sentiments of liberty are known more universally,

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than in any other parts of the Universe. Upon the great fundamental principles of our free government, by which the freedom of speech, the liberties of the press, and the hallowed rights of conscience, are secured, there is a general concurrence of opinion. But on one great point of our Government, there is evidently a radical diversity of judgment. I refer to the judicial tenure. In relation to this, the greatest men in our nation are at variance. Some contend that the independence of the judiciary, and the welfare of the people, require a tenure during good behavior, exempt from all responsibility for any judicial opinion, or any sort of conduct that does not involve corruption or malfeasance in the fulfilment of official duty. The removal from the bench is to be effected in the solemn form of impeachment and legal evidence of guilt. Another class of statesmen think that there should be a more direct, tangible, and visible responsibility of the Judges to the people, by whom they are supported, and by whom they are appointed, through the medium of constitutional organs. They would be satisfied by commissioning the Legislature to disqualify at the request of the majority, or two-thirds of the members. There is another class of politicians who believe that the responsibility of the Judges should be still greater; that their commissions should be for a term of years only. In looking over the state constitutions, I find each of these principles maintained and supported.

In Rhode-Island the Judges are elected annually by the Legislature.

In Connecticut the Judges are chosen annually by the Legislature.

In Vermont the Judges are chosen annually by the Legislature.

In New-Jersey the Judges are chosen by the Legislature every seven years.

In Georgia the Judges are chosen for the term of three years.

In Ohio the Judges are chosen for the term of seven years.

In Indiana the Judges are chosen for the term of seven years.

In the remaining fourteen states, the Judges are appointed during good behaviour; subject to be removed either by impeachment or removal by address of a majority or two-thirds of the members of the Legislature.

In the states where the judicial tenure is for a term of years, we hear no complaint as to the want of integrity or capacity on that account.

I confess, I have my doubts on this subject, whether it would not be best, for the people and the Judges too, that the latter should hold their office for a term of years, eligible to re-appointment. It might prevent the convulsive and heart-rending feelings which have already distracted some of our states, and broken asunder the strongest ties of friendship. I am convinced that the judicial tenure, by which Judges of the Courts of the United States sustain their offices, is too strong. It is inconsistent with the principles of liberty. I hope it is not necessary for me to assert, that this opinion is communicated upon general principles, and with a particular reference to the effects which have resulted from the power vested in the Federal Judiciary. I allude, sir, to the complaints which have been made, from time to time, by a majority of the states of this Union, agitating them, and destroying the confidence which should always be exercised towards the judiciary of our free and high-minded country. This opinion is confirmed by this reflection, that our nation has ever been blessed with a most distinguished Supreme Court, that this Court is eminent for moral worth, intellectual vigor, extensive acquirements, and profound judicial experience and knowledge. If, under such propitious circumstances, we have witnessed such discontent and commotion, what must become of us when we may not be able to boast of

such virtues, such talents, such integrity. My opinion has not been founded on an opinion that would under-rate our judiciary. I honor their exalted worth. The independence of a Judge depends upon the sternness of his integrity. Yet may not this absolute independence create occasion for alarm—with an ability and resolution to perform his duty, I am content, that, during the term of his office, he have an ample salary, which shall not be diminished. That I am willing to see the Judges independent, receiving a reasonable and liberal compensation, my exertions in this body, and in the House, ought to convince the most credulous, and must prove that, against the Federal Judiciary, I have not the least malignant emotion. My objection is to the permanent tenure of the office. But finding that the tenure sanctioned by our constitution places it beyond our control, or any other control, excepting a proof of corruption in the discharge of official duty; viewing, too, as I must, the alarming extent of the judicial power given by our Federal Constitution, and as exercised by our Judges themselves; contemplating with sadness of heart the dreadful evils which this jurisdiction threatens, extending, as it does, alike to national and municipal objects, involving the laws of the Union, and the constitutionality of the laws and local policy of each state, I object—I cannot but object, to the plan proposed in opposition to this bill. I ask, why must the circuit system be separated from the Supreme Court, by which the Judges are located in Washington, and confined to seven in number? I urge the superior claims of the plan which I have the honor to present by this bill. Let the number of the Judges be augmented to ten, and let them be compelled to perform circuit duties in every state throughout the Union. This will render them familiar with the local policy in every part of our country. By the united discharge of sectional and national service, they will become acquainted with the concerns of our whole confederacy.

I am brought, sir, to a consideration of the number of the Judges which the bill proposes. This number will not be too great upon momentous subjects, particularly such as involve the sovereignty of the states. The British laws and constitution provide three Courts, eminent for the extent of their jurisdiction and the ability of the Judges. I allude to the Court of the King's Bench, the Court of Common Pleas, and the Court of the Exchequer. These Courts are each composed of four Judges, making twelve in number; and these twelve Judges, constitute one Court, upon all great and momentous questions, which may be adjourned from either of these Courts, for their adjudication. The Lord Chancellor may sit with the convocation, making it thirteen in number. And yet, what is more remarkable, there is an appeal from this learned and august body to the House of Lords. Let it be recollected, that these judges have no authority to declare acts of Parliament violations of the Magna Charta, or, in other words, they have no power to pronounce laws unconstitutional. I believe, sir, this power has never existed, nor ever attempted to be exercised, by the judiciary of any country, the United States excepted. It is peculiar to ourselves. What! shall England love justice more than we? Then, let me ask, are ten Judges too many to decide on the great concerns of our states and nation, which, in the exercise of their jurisdiction, must be embraced? I presume not. Taking into view the facilities of inter-communication between the most distant parts of the confederacy and the seat of the General Government, I am convinced that it will be found most expedient, most safe, to continue the present system, and extend it as proposed, so as to embrace every state in our Union. The pure administration of justice, in every country, imparts high character to its political institutions. Despatch in the operations of justice, facility and rapidity in its impartial decisions, communicate confidence and



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tone to public sentiment, and diffuses that moral strength which gives nerve to physical energy. So far as property is in question, there prevails a firm, a deep-rooted confidence, fixed in every bosom, in reference to the opinion of the Courts. My object is to place on a firm basis a like confidence, where any judicial question may involve the sovereignty of the states. This bill will accelerate the accomplishment of this most desirable object. It would be a waste of time to offer remarks relative to the expense of extending the system as now proposed. No branch of Government is more vitally, more essentially important, than the administration of justice. The rights of personal liberty, the rights of private property, are involved. It is the repeller of persecution, the shield to innocence. The revenue of the nation amounts, annually, to upwards of twenty millions of dollars: of this revenue we annually appropriate less than one hundred thousand dollars to the administration of justice, inclusive of contingent expenses, while million after million for other objects are expended. The appropriation for diplomatic intercourse with foreign powers constitutes a larger amount. It is presumed that no objection will be made by any, as to the small additional expense, which secures to the West equal judicial representation in the Supreme Court of the Union, which secures to us equal advantages.

Mr. KELLY moved the following amendment, which was agreed to:

"And all suits at law, and in chancery, and all criminal prosecutions, pending in the district courts, at the passage of this act, and not exclusively cognizable in the district courts, by the laws of the United States, shall be transferred for trial to the circuit courts herein established, for the respective districts in which said suits and prosecutions shall be pending; and the clerk of the said district courts shall transmit the original papers, together with a transcript of the orders and proceedings, had in the said causes and prosecutions, respectively, to the clerk of said circuit court."

Mr. KELLY observed, there were a class of cases, those involving a sum beneath \$2,000, from the decision of which there was no appeal. The great object was to do justice, and then to do it in as satisfactory a manner as possible. There were cases of the description he had mentioned, in which the parties thought injustice had been done them, and it was a matter of importance to allow them a writ of error or appeal to the circuit court.

He had prepared an amendment to provide for that class of cases, which he then offered, but subsequently withdrew. It was as follows.

Sec. —. *Be it enacted*, That any sentence, judgment, or decree, that shall have been rendered in any of the said district courts, at the passage of this act, which could have been revised by appeal, or writ of error, in the circuit courts herein established, if said courts had been in existence at the rendition of said judgment, sentence, or decree, may, in like manner, be revised, in the said circuit courts, provided the same shall be carried up for that purpose, within twelve months from the passage of this act; and it shall be the duty of the clerks of the said district courts, on the application of the party aggrieved, by himself or counsel, to allow an appeal or writ of error, at the option of the applicant, and send up a certified copy of the record, as required by law in similar cases; and, if bond and good security be given for the prosecution of said appeal, or writ of error, (which the clerk of said district court is hereby authorized to take,) the same shall operate as a supersedeas; but if no such bond be given, the execution of the judgment shall not be suspended thereby.

Mr. VAN BUREN agreed that something ought to be done, and they must adopt one of two courses; either the present system, as a system, should be retained, and

be extended to these states, by appointing additional judges; or, that the system should be changed. He urged the necessity of carefully considering the subject, in all its bearings, before coming to a decision; for, on this decision would depend the character of the judicial system of the United States for years to come, perhaps forever. He was duly sensible of the claims these states had upon Congress, and the necessity of some provision being made for them, but suggested whether it would not be more advantageous to defer the subject till the commencement of the next session, as there would be so little probability of its passing through in the present, from the very short time that remained.

Mr. TALBOT, of Kentucky, was against the postponement, on the ground, that it had been before the House the whole of the session, and every gentleman wishing to take part in the discussion, had had full time to prepare his arguments. The Senate, he imagined, must be fully aware of the deep interest existing in the Western States on this subject. They had been denied the privilege enjoyed by every state in the Union. This bill had been thoroughly examined by the Judiciary Committee, and amendments had been made, and now a postponement was proposed. He thought they ought not to shrink from an important discussion, because the time was short, and expressed his hopes that the affair would now be settled, or at least make some progress.

Mr. HOLMES, of Maine, offered a few remarks, expressing his opinion that the present system operated to the delay of justice in the Western states, and that some measures for their relief ought to be decided on.

Mr. BARBOUR offered his views on the subject at considerable length, and dwelt with much force on its importance, and expressed his conviction that the delay might be productive of some inconveniences, yet they would be nothing to the injury that might be occasioned by acting without great deliberation. A Judge of the Supreme Court could not be unmade, because that court was established by the constitution itself. Mr. B. expressed the high interest he took in the prosperity of the Western states. He allowed the justice of their claims on the present occasion, and thought the only difficulty with Congress would be, what would be the measures which could be adopted to respond most advantageously to those claims. There was, Mr. B. said, a great difference of opinion on this subject. He had maturely considered it, and had come to the conclusion that it was necessary to have the Supreme Court separated from the Circuit Court. By the present system, the Judges of the Supreme Court were required to perform circuit duties which were impracticable. Theory and practice had proved that none but men of the highest reputation and long experience should occupy the Supreme Bench; and was it reasonable to suppose that an old man could perform the duties of a Judge in the Supreme Court, and then sustain the fatigues of travelling through the country as a Circuit Judge?

Mr. B. then detailed, at some length, the advantages which would arise from giving up the District Court system, and converting these Judges into Judges of the Circuit Courts. The Supreme Court, by being independent, would have full time to deliberate on the important causes which necessarily came before them, without subjecting them to that which he thought was impossible. He did not think the expense was worthy of consideration. Let there be a good judicial system formed, in coincidence with the exigency of the occasion, so as to satisfy every part of the Union, that their interests had been foreseen and provided for, and he cared not for the dollars and cents involved in such a course. Mr. BARBOUR then submitted the following resolution.

*Resolved*, That the bill be recommitted to the Judiciary Committee, with instructions to amend the bill so

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On the Judiciary.—*The Creek Treaty of 1804.*

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as to exempt the Judges of the Supreme Court from performing circuit duties, and to increase the number of Circuit Judges.

Mr. JOHNSON, of Ken. again addressed the House in favor of the ten Judges, and earnestly hoped that, as they had justice on their side, no further opposition would be made the progress of the bill.

Mr. HOLMES, of Maine, expressed his fears that, if the Supreme Court were located within the District of Columbia, they would become more national. At present, they mingled with the people, they understand the laws of the state in which they lived, at least, and were they to locate in the District, that connection would be liable to be broken, and they would be weaned from that affection for the state government they had hitherto had. He thought they were national enough already, and therefore objected to their being introduced into the District.

Mr. H. expressed his views at some length on this subject, and the interest it might have in inducing them to favor the National Government; and, after some further observations on the tendency of the present bill, concluded by observing, that, of the two schemes proposed, this was the best, with all its imperfections, and would not radically alter the present judicial system.

Mr. BARBOUR again rose, and entered into an argument to show the superiority of his plan, as it tended to produce equality throughout the Union, and contended that his friendship for the people of the West was sufficiently evident, from his having proposed a system which would tend to improve their condition more than that proposed by themselves. He again argued on the impossibility of men, advanced in years, being able to undertake a journey of two or three thousand miles; and as proof of the inconveniences attending the present system in the West, adverted to the fact that had been stated, that there were 900 cases on one docket in Kentucky, and exhibited a striking view of the evils that must necessarily be produced by this delay, in the administration of justice, where these judges were obliged to travel with such haste, and reside in so many places. The decisions they pronounced were without confidence, and produced a stream of litigation which concentrated in Washington, and thus the docket of the Supreme Court was continually accumulating.

Mr. B. then referred to the fact that, in Virginia, their Supreme Court was occupied the whole year round in deciding cases, and inquired how it could be possible that the Supreme Court, which sat for a few weeks only, could possibly dispose of all their business, consisting generally of causes of a most important character, and urged this as one of the most striking proofs of the necessity of exempting the judges from circuit duty, so that the stream of justice might not become clogged.

Mr. B. then answered, at considerable length, the several objections of the gentleman from Maine, (Mr. HOLMES.) He did not, he said, propose to locate them in the District—he was indifferent where they resided, so they performed their duty—but, supposing that he had proposed so to locate them, he said he was ignorant of the wonderful power of the air of Washington, and appealed to the gentleman himself, (Mr. H.) as to the effects he experienced from it. He thought there was no danger of their being biased in their decisions. They had passed the fiery ordeal of forty years' exposure to the eyes of the country; they were invested with their power by the Supreme Magistrate; and must receive the sanction of this body—the guardians of the state; they had not only the character they had previously acquired, to maintain, but the solemn injunctions of their high office to support; they were exempt, as far as men could be, from the little passions of the day, and yet these were the men who were to be tainted by the air of Washington; this was an idle fear.

Mr. TAZEWELL, of Virginia, said he had no objec-

tion to the recommitment of the bill, but he had objections to the latter part of the resolution. If the proposition were divided, then the sense of the Senate would be tried by a comparison between the bill proposed and any other that might be substituted. If the latter should be the case, then he should take an opportunity to submit a plan to the Senate, which he thought preferable to that of his colleague—which was, that the committee to whom the bill should be recommitment, should be instructed to report a bill providing for a number of Circuit Courts in the Western country, as many as their necessities might require, and to appoint a number of judges for these courts, which judges should not be judges of the Supreme Court. He would make another proposition on the subject: when a vacancy should occur on the bench of the Supreme Court, as it now exists, then the vacancy might be filled by the new made Circuit Judges in the Western country, and the circuit system should be introduced into the Eastern country. This, Mr. T. said, he should sustain, if he had an opportunity so to do.

Mr. JOHNSON, of Kentucky, hoped no further steps would be taken, till the gentleman from Virginia should have delivered his views on the subject, and moved that the Senate adjourn.

The Senate then adjourned.

#### HOUSE OF REPRESENTATIVES—SAME DAY.

Mr. JENNINGS, of Indiana, submitted the following:

*Resolved*, That the Committee of Ways and Means be instructed to inquire into the expediency of releasing by law all claim which the United States have upon Maston S. Clarke, of the state of Indiana, as one of the securities of the late Collector of the Internal Revenue of the late territory of Indiana."

In offering this resolve, Mr. J. said, that the individual referred to in the resolution he had presented, was allied to one of the most numerous and useful families in the Western Country. That he had been one of the early pioneers of the Western frontier, participated in most of the conflicts produced by the wars with the Indians, and had acted a conspicuous part in the battle of Tippecanoe, as well as on other similar occasions; and who, by his perseverance and enterprise, had possessed himself of a comfortable competency for his numerous and rising family. This, said Mr. J. was his situation when he became one of the securities of a late Collector of the Internal Revenue of the late Territory of Indiana, who has since, by a decision of the District Court, been found a delinquent to a considerable amount—the result of which has been, that Col. Clark has been, by the operation of law, stripped of all his property, both real and personal, not leaving to him so much as the sword he had honored, or his tomahawk and scalping knife, which had been his constant companions as a private soldier. He hoped the resolution would be adopted.

The resolve was agreed to.

#### THE CREEK TREATY OF 1804.

On motion of Mr. M'LANE, of Delaware, the House proceeded to consider the bill "making further appropriation for the military service for the year 1825."

Mr. FORSYTH, of Georgia, moved to recommit the bill to the Committee of Ways and Means, with instructions to strike out the appropriation of \$20,000, for the arrearages due under the treaty with the Cherokees, of 1804, and ratified in 1824, and also the appropriation of \$1000, for the annuity under the same treaty for the present year. Mr. F. remarked that he had the honor to call the attention of the House, at an early period of the present session, to the subject now before it, by a resolution calling on the President of the United States for information respecting this treaty. The information

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was received on the 27th December, and was referred to the Committee of Ways and Means. The treaty, though made in 1804, was not touched for twenty years, and was not ratified until both the Commissioners who made it were dead, and all knowledge of the transaction lost at Washington. In 1824, the Cherokees came to the Government and claimed the ratification of the treaty. The Senate had the subject for some time under consideration, and at length concluded to ratify it, on the ground that its not having been ratified at an earlier period, was wholly owing to accident. He should now ask leave to call the attention of the House to the documents received from the Executive Department, from which he hoped to shew that the ratification of the treaty had not been accidentally omitted, but that it was the duty of the President to refuse to ratify it; that the circumstances of the case had so greatly changed since 1804, that the ratification of this treaty, in 1824, was in fact a fraud—the land having been already, by a previous treaty, transferred to the United States. It appears that instructions were given in 1804, to Return J. Meigs and D. Smith, to enter into a treaty with the Cherokee Indians; they went accordingly to the Cherokee country and made a treaty, by which a tract of land four miles in width and twenty-four miles in length, containing about sixty-three thousand acres, was ceded to the United States on condition that the Cherokees were to receive \$5,000 in cash and an annuity of \$1,000, which at five per cent. was equal to \$20,000. So that the land cost the United States near forty cents an acre. Now, he would refer to all previous treaties, and indeed to all treaties ever made by this Government with Indian tribes, to shew, that by no other treaty was the land ever purchased of them at a rate exceeding seven cents the acre. He took it for granted, that in 1804, this treaty had been presented to the President; but that officer, perceiving that five or six times the usual price had been given for the land, refused to ratify the treaty. It certainly was his duty so to do. He thought that the testimony of the Cherokees themselves went far to shew that this was the fact. In their application of the 19th of January, 1824, to have the treaty ratified, they say that the reasons why it was not, were “not fairly known to them.”—Not fairly known! It appears then that some reasons were given. But, if there could be any doubt of this, it is effectually removed by the concluding passage of their application, in which they hope that “their Great Father will reconsider the subject.” This amounts to a declaration, that he had considered the treaty, and had refused to ratify it, and they now asked him to reconsider it.

He had another reason for believing that the treaty could not have been ratified in 1804. This tract, well known in Georgia by the name of Wafford Settlement, had been settled by citizens, who claimed under grants from the state, made on the basis of a treaty between the state and the Cherokees, before the adoption of the Federal Constitution. Mr. F. here quoted the 3d article of a treaty made at Augusta, in 1783; and from which he argued that this settlement lay within the bounds of Georgia, at the date of the constitution. These grants had been judicially investigated and sustained by the courts of the state. The question, therefore, for the President to decide, was, whether, for the sake of correcting an error in a subsequent treaty, he should give \$25,000 for land, which, in fact, belonged to Georgia in 1783; whether he should pay an enormous and unprecedented price to the Cherokees, for what did not, in fact, belong to them. No evidence had been received from the Executive Department, to show in what manner this transaction took place. We are told that the Government has appealed for information to the recollections of Mr. Jefferson. Sir, is this a source from whence documentary evidence is to be drawn? Are we to go to the recollection of a former venerable chief magistrate, illustrious as he may be? Why has not the correspondence with

our Indian agent been searched? And if any accident has happened to destroy this, why are not his private papers referred to? It is manifest, from the face of the papers, that Mr. Jefferson has no distinct recollection on the subject, and has been deceived by the applications made to him. The letter from that illustrious man is written under the supposition that he has committed an error, and it is such as might, under that supposition, be expected from him. He has been unjust to himself; and one part of the anxiety which I feel, arises from a desire that this injustice may not be done to him. If he had duly reflected on the price which this treaty engages to give for the land, he would at once have perceived that there was good reason why the treaty was not ratified: but forgetting this, he supposes that the non-ratification was the effect of mere accident and inadvertency. The reasons of this supposition he states to be, first, that he can find no letter addressed to him on the subject, although he has kept an accurate list of all the letters received and written by him for many years; and the second is, that he perceives, from a list of papers presented to the Senate, that this treaty was never laid before them.

Now, sir, the conclusion of Mr. Jefferson, from both these reasons, is certainly erroneous; for, in the first place, the treaty itself was never sent to him. The whole intercourse was with the War Department. Nor was any letter likely to be written to him on the subject, inasmuch as it is extremely probable that, at the time of the making of the treaty, he was in Washington, and it was not laid before the Senate, because he refused to do so. He could not in fact have done so, in consistency with his duty. Five thousand dollars had already been paid, which alone was as high a price as had ever been given for the cession of Indian lands; and the course which the President probably took, was to notify the Indians, that, if they were satisfied with this sum, they might retain it, but, if not, the United States would give up the land, and they must return the money.

Colonel Meigs, who then presided over the Cherokees, and was the agent of the United States, for that nation, was a man of the purest character; the annuity for that tribe must have passed through his hands, and it would have been his duty to call upon the Government every year for the annuity stipulated in this treaty, if he or that nation had understood it to be binding on the U. States. He never has done so, nor has the subject been touched while this virtuous citizen lived. To my mind, said Mr. FOSTER, this is, of itself, sufficient evidence; for I am morally certain that that man would have called on the President to perform the engagement, if he had understood the President to be bound. But this subject presents itself before us in another, and a graver form. The President of the United States has conceived himself at liberty to refer to an illustrious individual, now retired from office, to know whether he did, or did not, submit this treaty to the Senate, and whether it was, or was not, ratified.

Sir, I ask this House whether such a power resides in the President of the United States? Whether he can place, on the vague recollection of a former President, the propriety of ratifying a treaty which is to bind the nation? On whom does the responsibility of treaties now rest? On him who is now President, or on the person who was President in 1804? The Cherokees now come and ask him to reconsider the determination of his predecessor, with respect to this treaty; any arrangement which would justify the President of the United States in doing so, would justify him in laying before the Senate any treaty that had been rejected by his predecessor. This, however, is somewhat foreign to the subject immediately before us. Let us now look at the contract made by a treaty with the Cherokees in 1817, and completed in 1819. By this a large territory is ceded to the U. S. much larger than that for which this appropriation

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is to be made; and extends beyond and around it. By this treaty the Wafford Settlement is conveyed to the U. S. if it never was before? for it will not be pretended that when a large tract is conveyed by a treaty, a small tract in the centre of it is to be excepted from the conveyance, unless express stipulation to that effect is contained in the treaty itself. The latter treaty establishes a new boundary line. It makes full cession to the U. S. and now, in 1824, they claim a stipulation from the U. S. to give them an annuity for granting a part of this very land. Such are the circumstances on which I ground my opposition to this item of appropriation. I feel no great zeal on the subject, but have considered it my duty to lay the subject before the House.

Mr. McLANE, of Delaware, observed in reply, that it was his duty to state the facts on which the Committee of Ways and Means had recommended an appropriation to carry this treaty into effect. It might be considered a matter of just surprise, that it should be asked whether this House will appropriate a sum of money, solemnly and explicitly pledged in a treaty, solemnly and deliberately ratified. The subject was important in its bearings, and he trusted that the House would deliberate before they established a precedent which might have important consequences. In order to the successful carrying on of the system of our Government, it was necessary that each branch of it should confine itself to its own sphere, and should give to the other branches that degree of importance which was their just due. The Constitution had assigned to the President and Senate the power of making treaties, whether with foreign nations or with the Indian tribes. When a treaty had been constitutionally made and ratified, this House is bound, by the strongest obligations, to make the necessary provision for carrying it into effect. He would not say that this duty was always and absolutely imperative. Yet the reasons must be strong indeed, which justify the House in a refusal to do so.

The present treaty had been made, as was stated, in 1804; but, from causes which fully appear from the documents submitted to this House by the Executive Department, it was not ratified until 1824. As soon as it was ratified, a communication was addressed, by the Department of War, to the Committee of Ways and Means, requesting an appropriation to carry it into effect. The committee hesitated in complying; they saw that the ratification had not taken place till 20 years after the treaty, and there were arrearages of \$20,000. They wished to have this more fully accounted for; and, accordingly, no appropriation was presented to this House at the last session. The Executive Department was called on for information: a communication had since been made, and laid before the committee, by which their doubts were entirely removed; and, in consequence of which, they now recommend the appropriation. The Cherokees were in possession of this land within the limits of Georgia, in 1804. Their lands were intruded on by citizens either of that state or some other; and an application was, in consequence, made by the Cherokees to the United States to dispossess the intruders. The Government of the United States felt that it was their duty to do so. Orders were issued accordingly, and, military force sent to put them into execution. When the troops arrived on the spot, they found that the settlers, for the most part, had crops then growing, and not gathered; and the officers interceded with the Cherokees to delay the removal of the intruders until their crops could be gathered in, and finally succeeded in persuading them to sell the land to the United States. The Government accordingly issued a commission to Messrs. Meigs and Smith, to negotiate for the purchase. A treaty was held, in which the Indians agreed to sell, and the commissioners to buy their land. The terms were as have been stated. They were to receive \$5000 in cash, and an annuity of \$1000. As soon as this treaty was

made, the Indians abandoned their land, and the settlers were suffered to remain, and others to enter. The Indians executed the treaty in good faith, and the only question that we ought to have any difficulty in deciding, would be, not whether they are entitled to receive the arrearages of the annuity, but whether we ought not to allow them interest for the whole time it has not been paid. The committee propose only the principal, without interest. Supposing the treaty had been ratified in 1806, would any gentleman then have said that the Government ought not then to execute it? Why was it not ratified? It was not the fault of the Indians, but of the United States. The documents will show that it was the fault of our own Government. Mr. Jefferson, in his letter, so far from depending on loose recollections, says, that the treaty ought to have been ratified. [Here Mr. McL. quoted the letter.] He declares that the treaty is genuine. The letter of Col. McKee, now a member on this floor, proves that the treaty was made, for he was a witness to it. Mr. Jefferson says that the transaction is "well remembered," and it turns out to be a fact, that the treaty itself was found in the War Office. Mr. Jefferson expressly says, "the treaty had all my approbation." The treaty then has been fulfilled by the Indians; it was not ratified, because it was mislaid; it has since been found, and has been ratified, and, under these circumstances, the House is called to appropriate. The gentleman from Georgia asks if the President ought to go to Mr. Jefferson for his recollections on this subject? Sir, this question might have been proper enough in the Senate, and at the time when the ratification of the treaty was under consideration, but it certainly is not a question for us to settle now. The President went to him as to a credible and highly respectable witness; but, as the treaty has since been ratified, the question is precluded. The gentleman says that this tract is included in a subsequent grant of the Cherokees. That is true—but was the price also included? A negotiation was set on foot with that tribe, for a large tract of land, and this tract happened to lie within the boundary; but is it just that it should not therefore be paid for? If the arrears are great, it is not the fault of the poor Indians; every gentleman knows how humble is their situation; they were, in a manner, forced into the sale of their lands by the interposition of our troops. What means had these poor creatures to enforce a ratification of our treaty?—The treaty has at length been found, and has been ratified. And now, our only duty is, to make all haste to do them justice.

Mr. FORSYTH again rose, and observed, that a curious question presented itself in relation to the different branches of this government, viz: whether, when the President and Senate have entered into a contract, this House may refuse to carry it into effect. His opinion on this question was well known. I hold not only that this House has the power, but that it is its duty, to inquire into the propriety of such contracts, and, whenever the public interest requires it, to interpose and prevent their fulfilment. He took it for granted, if this House was satisfied that the demand to carry the treaty into effect was a gross fraud on the United States, it will not give the means of fulfilling the treaty. For himself, he had no doubt that the whole originated in gross error, and time should at least be allowed for a farther investigation. The gentleman from Delaware laid the whole stress of his argument on Mr. Jefferson's letter, and Mr. Jefferson's recollections and opinions seemed to be the ground on which the President and Senate went, in ratifying the treaty. Mr. Jefferson says, indeed, that the treaty had his approbation, but justice to that distinguished officer requires me to come to an opposite conclusion, and from the face of his letter, I deny that this treaty had his approbation. The price paid for the land is equal to its value at this day! It is six times as much as has ever been given for any Indian land! Two ques-

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tions were asked Mr. Jefferson; the first is, Whether the treaty is genuine? He says that it is, and of this there can be no doubt. The second is, Whether the omission to ratify it was accidental or intentional? To this he replies that he does not know. But, actuated by a desire to take to himself every degree of blame which can justly attach to him, he represents it as accidental. But the treaty never had, or could have had, his approbation.—It is not correct that the lands of the Cherokees were intruded upon by the citizens of Georgia, nor were they in possession of the Cherokees, when the treaty was formed, but they were in dispute, and, as he had already stated, were occupied by persons whose claims, founded on grants under the treaty of 1783, have undergone a judicial investigation. This fact the gentleman from Delaware did not notice. The gentleman from Delaware says, the treaty was mislaid; but how does this agree with the other facts of the case? The subject, according to his own showing, was one of great interest; the Cherokees had made a complaint to government, orders had been issued, and even military force had been employed. Is it conceivable that, if the Cherokees understood themselves to be entitled to an annuity, and that annuity was not paid to them, they would not complain? That the virtuous agent who presided over them would have been so negligent of what he owed to the nation, as not to make a complaint to this government? Yet the subject is not touched till he is dead! which was conclusive proof that there were reasons why the treaty was not ratified. The gentleman from Delaware had bespoke the favor of the House for the Cherokees, on account of their humble situation, and their inability to resist the power of this nation, and that, therefore, no great scrutiny was needful in making an appropriation for their benefit. Whatever might have been their humility formerly, Mr. F. said, they were no longer humble. They had been exalted by the kindness of government. None could forget the peculiar distinction with which they were treated in this city last winter. Yet they had mingled with the other tribes in resisting and frustrating the wishes of Congress, as expressed in the act of last session. He did not wish to urge this to their prejudice, but merely mentioned it as a countervailing consideration to the appeal made by the gentleman from Delaware to the feelings of the House on this question.

The gentleman says that the omission was accidental, and that the House may execute the treaty *nunc pro tunc*, but the House is not authorized to do so, because evidence is no doubt in existence, and can be procured, of the reason why the treaty was not ratified. If it shall be shown that Mr. Jefferson was not to blame, then the question will recur, How far are we bound by the mistakes of a subsequent administration, to carry this treaty into effect? For himself, he thought the House was not bound, and, as to the consideration of injustice, he insisted that the Cherokees were amply paid by the 5,000 dollars which they had already received—a price which exceeds the rate paid for any other lands purchased of the Indian tribes.

Mr. WOOD, of New York, desired to know whether the Indians were in possession of this land from 1804 to 1817? or whether the United States took possession of it?

Mr. FORSYTH stated, in reply, that those whom the Indians called intruders, were in possession of the land in 1804, and had been ever since.

Mr. LIVINGSTON, of Louisiana, said, this motion presented an important question, on which he was not called on now, for the first time, either to form or express an opinion. About thirty years ago, he had made a motion, at the time of the ratification of a treaty negotiated by Mr. Jay, with Great Britain, on the discussion of which it was solemnly resolved that this House had the constitutional powers to grant or withhold its co-operation in carrying a treaty into effect, whenever its execu-

tion required the exercise of any powers confided to this branch of the constitution. But, in making the motion, which led to the operation of the powers of the House, he had never pretended that it ought to be exercised in any case but as a check upon some abuse of power, or to avoid a manifest and great evil to the state. The same ground was taken, as he understood, by all those who supported the powers of the House on that occasion, and that no one pretended that, in every stipulation, made by the President and Senate, under the treaty-making power, which came before this House, they were to inquire into the mere expediency of the stipulation; and, if it were such as they might not have been inclined to make, that they were on that account alone, justifiable in refusing their agency in carrying it into effect.

Applying these principles to the present case, Was it such a one as would justify the exercise of this right? Is it not rather one that, if we were the proper constitutional organ for ratifying the treaty, would demand its execution? A more urgent call on the honor, and justice, and humanity, of the nation, could scarcely be presented. Twenty years ago an intrusion had been made on the lands of a friendly tribe of Indians, contrary to express and highly penal laws of the United States. The Government had then the alternative of raising a force sufficient to remove the aggressors, or to satisfy the Indians by a purchase. They attempted the former—the settlers were ordered to remove, but the savages, with a moderation and humanity that would have done honor to a civilized nation, suffered the trespassers to remain until they could gather the corn they had planted. In the mean time, the Government, calculating perhaps, the difficulty and expense of breaking up the settlement, determined to endeavor to make a purchase. It was made. Of this there is no doubt—no dispute. How it was made, is another question. Whether the poor wretches yielded to the strong arguments of the troops who were among them—whether those troops found it easier to enforce a treaty than to remove the settlers, is not now the question. The treaty was made. Five thousand dollars were paid, and one thousand agreed to be annually paid. It was executed in the utmost good faith by the savage contracting party. The lands were given up, and the possession of the United States has never, from that time to this, been disturbed. A copy of the treaty, duly executed, was delivered to the head men of the nation; but the copy intended to be sent to Washington for ratification, never arrived. Last year, the Chiefs of the nation arrived at Washington, bringing with them their copy of the treaty, and demanding the payment of the annuity. The President, finding no such document on record, had recourse to secondary evidence—to a witness who, from his station, his character, his accuracy, and perfect possession of all his mental faculties, could best elucidate the matter—he applied to the venerable man who was then President of the United States, to know, first, whether he recollected whether such a treaty existed? Secondly, whether any reasons had prevented him from submitting it to the Senate for ratification? To this he answers, that he remembers the treaty—that, as it had his *entire* approbation, no reason could have existed to prevent him from submitting it to the Senate; and that he supposes it must have been mislaid in the War Office on its passage to him. This conjecture proved true; on search being made among the miscellaneous papers of that office, the treaty was found: it was sent by the present Chief Magistrate to the Senate, who, after examining all the circumstances of the case, advised its ratification. It was ratified, and we are now called on to interpose the extraordinary powers of the House to avoid the contract, by refusing an appropriation to carry it into effect.

The reasons for this refusal are, that this delay in de-



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manding its ratification and the payment of the arrears, shows that there was either error or fraud, and of course, that Mr. Jefferson, when he says he entirely *approved the treaty*, was mistaken; that, in fact, he did not approve it, and that his objections must have been so strong as to prevent his even submitting it to the Senate. But, when we ask for the evidence of this mistake, in a witness so well qualified in every way to give the most correct testimony, we are told that the price of the land was more than was ever before given for any Indian title. Sir, I think we had better not press this subject, lest we should find how very inadequate even the highest prices we have ever given, would be to the value of what we bought. But there were reasons in this case that might have made the purchase a cheap one, even at a much higher price. We must either have sent a stronger military force to dispossess the settlers, or purchase from the Indians at their own price. At any rate, the presumption arising from this circumstance, is much too weak to counteract the positive proof.

But why did not the Indians insist on the ratification? Sir, we might ask this question of the contracting party, if the contracting party were a civilized nation, regularly organized, and having its minister resident at our seat of Government. But with what force can it be urged against a horde of ignorant savages, trusting to our honor for the regularity and validity of the contracts we made? What did they know of your Senators and your ratifications? They only looked to the stipulations made by your commissioners—they knew that they were to yield up their land to the white settlers, who had taken it—and they did so; they received part of the consideration which we were to give, and performed the whole of what they stipulated to do—they gave all. Sir, if this transaction had been made even with a civilized nation, the want of a ratification could never be objected to them, after they had suffered us to remain in possession for twenty years. What force, then, can it have, when urged against men utterly ignorant of the forms of diplomacy, or even the meaning of the term?

Suppose it a case between individuals, in which, on a contract for the sale of lands, part of the purchase was paid, and possession delivered, and kept for twenty years; what tribunal on earth would refuse to enforce the contract, if made by an attorney, because the principal had not ratified it in form? But a ratification in deed is full as binding—the payment of the money—the retaining of the possession—the settlement of peace with the nation—were all implied ratifications; and the act of the President and Senate, latterly, is an express one. Besides, if not binding on us, it cannot be on them; and would we be willing now to surrender the land, 80,000 acres, on receiving our \$5,000.

Mr. L. believed then, this case was so far from justifying the extraordinary exercise of constitutional power to refuse the appropriation—that it was on the contrary one in which humanity, justice, and honor, concurred, in demanding the execution of the treaty.

The question was now about to be put, when

Mr. CAMPBELL, of Ohio, (chairman of the committee on Private Land Claims,) rose, to inquire at what time the Cherokees had applied for the ratification of the treaty, and whether they had asked, at an early day, for the annuity stipulated. The case, as presented, was certainly a very singular one. He was inclined to believe that there had been among the Indians, two parties—the old men who were in favor of the treaty, and the young men, who were opposed to it. It was very possible that the Indians themselves did not expect it would be ratified; but, if the treaty came on to this city, and was here accidentally mislaid until last year, he supposed Congress ought to carry it into effect. The gentleman from Georgia lays great stress on the price, which he says was six times larger than that paid to other Indians, but, if he would examine the treaty, he

would find that there is one clause in it, which appears to give larger limits in the grant than those which he has described.

Mr. COCKE, of Tennessee, (chairman of the Committee on Indian Affairs,) said that his situation enabled him to answer the inquiry of the gentleman from Ohio. He had had frequent conversations with the Cherokee chiefs who attended at this city last winter; and it was then that they first applied to have the treaty ratified.

Mr. FORSYTH said, that he had taken pains to ascertain the fact concerning which the gentleman from Ohio, (Mr. CAMPBELL,) had just inquired, and it did not appear that the Indians had ever made any complaint about the non-payment of their annuity, or had ever applied to have the treaty ratified. It appears, indeed, that the treaty was sent on here; but another part of the document will show that there was a correspondence on the subject with the agent of the Cherokees; that the Indians were satisfied, and gave a larger cession of land, to prevent the complaints of the people of Georgia. [Here Mr. F. quoted the documents to show that, in 1804, 63,000 acres were ceded, that in 1812, no complaint had been made, but an extension of the boundary line was granted, which he insisted was a proof that the Indians considered the \$5000 as a full payment for the land.]

It had been said by the gentleman from Delaware, that the non-payment, and the non-ratification, were the fault of the United States. This position, said Mr. F., I positively deny. The Indians never asked the ratification; they never complained of the non-payment of the annuity. Their agent was here again and again; he must have been acquainted with the intentions of the President. He never applied; but the moment he dies, the nation applies for the ratification of the treaty. Mr. F. concluded by summing up the points of the argument, and briefly recapitulating his reasons against the appropriation.

Mr. McLANE briefly replied to Mr. CAMPBELL, whose inquiry, he said, would be proper, if the question was now on granting interest; their demanding or not demanding the annuity might affect such a question, but certainly had nothing to do with the principal debt. He asked if their not applying would be a good argument, supposing the treaty had been ratified in 1805. He dwelt with earnestness upon their helpless and humiliated condition, and strongly insisted on the obligation of the Government, both from their justice and magnanimity, to fulfil the treaty. While he was up, he would make one request, to which he desired the attention of the House. It must be perceived by all, that the gentleman from Georgia has been laboring to show that Mr. Jefferson did not do, what Mr. Jefferson himself says that he did; and that Mr. Jefferson did not think as Mr. Jefferson himself expressly says that he did. Mr. Jefferson says that the treaty "had his full approbation;" the gentleman from Georgia says that it had not. And how does he show this? He tells us, that if Mr. Jefferson was so much interested, how could it happen that the treaty slumbered for so many years? Sir, there is a very good reason why the United States should have sumbered over this treaty. Their object was accomplished. The intruders were driven off the land. The Indians had given it up. It was quietly in their hands. But, sir, if the intruders had remained, or the Indians had refused to surrender the lands, you would have then found the United States proceeding with a quick step. But both the Indians, the intruders, and we, slept. Whose fault was it? Sir, it was ours. The gentleman objects to the price; but, sir, the United States were not purchasing land, they were purchasing the peace and tranquillity of the Southern country. We all know what is the character of these squatters or settlers, or by whatever other names they are called; that they cannot be dispossessed but by force; an armed force was

FEB. 10, 1825.] *The Creek Treaty of 1804.—Letter from the President Elect.* [H. of R.]

sent to dispossess them, and, if they had proceeded to extremities, blood must have flowed, and a far greater sum have been expended than would have been equal to this difference of price. This was the true consideration of the treaty, and not the land.

Mr. CAMPBELL, of Ohio, observed, that, if the gentleman from Delaware was as well acquainted with the Indian character as many gentlemen in this House, he would have known that Indians are never slow in claiming what they consider as their due. If they did not apply, it was certainly a great presumption that they did not suppose themselves to have any right. The gentleman who writes one of the letters in these documents, is well acquainted with the Cherokees. There are many good scholars among them; some who cannot only read and write, but who understand composition as well as any white men. Would these have been so sluggish if they knew they had a right to the annuity? It was incredible.

He admitted that there was a treaty, and that it was partly carried into effect, but he thought it plain, from the circumstances, that it must have afterwards been annulled by some arrangement with the War Department. At all events, the Indians must have been under this impression, or they would have insisted on its fulfilment.

Mr. CULPEPER, of North Carolina, said, that the argument from the non-application by the Indians, would be equally good against a note of hand, which was suffered to lie for a long time without being applied for. This certainly did not touch the validity of the note. He thought the argument lay within a small compass. The first question was, Has the treaty been made? The second, Have we received the land? The third, Have we paid the money? To the first question, we must reply, Yes, the treaty has been made. To the second, we must also reply, Yes, we have received the land. And to the third, there could be but one answer. We have not paid the money. If we suppose we have, then it is for us to prove we have. He did not profess to be acquainted with law, but this seemed to be the dictate of common sense.

Mr. INGHAM, of Pennsylvania, said that, it might be worthy of consideration, whether some explanation could not be given why the Cherokees had not demanded the annuity. He thought the House was in possession of circumstantial proof enough to show that they had not abandoned their claim. The chairman of the Committee of Indian Affairs had had joint conversations of the Cherokee agents, who were here last winter. They say that the treaty was lost among them as well as among us; that they applied here for a copy of it, but it could not be found. They then appointed a day and a place in their own nation, in which all the persons of their tribe, who had public papers in their hands, were required to bring them forward for examination. One old man brought a bundle of papers, among which the treaty was at length discovered. Then, and not till then, the Cherokee nation had official evidence of their claim against the United States. Their failure in demanding this claim before, ought not, therefore, to preclude their right.

Mr. WILDE, of Georgia, observed, that he had not sufficient information to enable him to vote for the present appropriation. He could not vote for it unless he had higher evidence than had yet been produced, that the treaty did receive the sanction of the former President. He thought there must be entire evidence in existence—he presumed there must be a correspondence on this subject on the file of the War Department; and if that was destroyed, that it must exist in some part of the papers relating to Indian Affairs. On the constitutional question, he would observe, that the state of Georgia had no direct interest in resisting this appropriation. If Congress choose to give this sum to the Cherokee In-

dians by way of gratuity, Georgia can have no objections; she disdains any obligation under this treaty.

In 1817, that state claimed land lying within the limits of this settlement. In 1824, the limits of the state were narrowed, and that land was ceded to Indians which had been before added to the state of Georgia. It had been insisted on in the treaty of Ghent, as a reason against granting certain portions of our Territory which were claimed by Great Britain, that the General Government had no authority to cede any portion of the territory of a state. But, in the case to which he referred, the Government certainly did this. Georgia, however, never acknowledged it. Before he sat down, he wished to ask the chairman of the Committee of Ways and Means, Whether any inquiry had been made for the correspondence with the Indian agent.

Mr. McLANE, in reply, quoted the documents to show that they contained all the information which the Government possessed on this subject.

The question was put on striking out the appropriation, and decided in the negative.—Ayes 25—Noes 90.

The bill was then read a third time, and passed.

#### LETTER FROM THE PRESIDENT ELECT.

Mr. WEBSTER, from the committee appointed for the purpose, yesterday, reported that the committee had waited on JOHN QUINCY ADAMS, of Massachusetts, and had notified to him, that, in the recent election of a President of the United States, no person having received a majority of the votes of all the electors appointed, and the choice having consequently devolved upon the House of Representatives, that House, proceeding in the manner prescribed in the Constitution, did yesterday choose him to be President of the United States, for four years, commencing on the fourth day of March next. And that the committee had received a written answer; which he presented to the House. The committee also, in further performance of its duty, had given information of this election to the President.

*Gentlemen:* In receiving this testimonial from the Representatives of the People, and States of this Union, I am deeply sensible to the circumstances under which it has been given. All my Predecessors in the high station to which the favor of the House now calls me, have been honored with majorities of the electoral voices in their primary colleges. It has been my fortune to be placed by the divisions of sentiment prevailing among our countrymen on this occasion, in competition, friendly and honorable, with three of my fellow citizens, all justly enjoying, in eminent degrees, the public favor; and of whose worth, talents, and services, no one entertains a higher and more respectful sense than myself. The names of two of them were, in the fulfilment of the provisions of the constitution, presented to the selection of the House, in concurrence with my own; names, closely associated with the glory of the nation, and one of them, further recommended by a larger minority of the primary electoral suffrages than mine.

In this state of things, could my refusal to accept the trust thus delegated to me, give an immediate opportunity to the people to form and to express with a nearer approach to unanimity, the object of their preference, I should not hesitate to decline the acceptance of this momentous charge, and to submit the decision of this momentous question again to their determination. But the Constitution itself, has not so disposed of the contingency which would arise in the event of my refusal; I shall, therefore, repair to the post assigned me by the call of my country, signified through her Constitutional organs; oppressed with the magnitude of the task before me, but cheered with the hope of that generous support from my fellow-citizens; which, in the vicissitudes of a life devoted to the service, has never failed to sustain me—confident in the trust, that the wisdom of the Legislative Councils will guide and direct me in the path of my offi-

H. of R. & S.] *Road from Pensacola to St. Augustine—Topographical Surveys.* [FEB. 11, 1825.]

cial duty, and relying, above all, upon the superintending Providence of that Being "in whose hand our breath is, and whose are all our ways."

Gentlemen: I pray you to make acceptable to the House, the assurance of my profound gratitude for their confidence, and to accept yourselves my thanks for the friendly terms in which you have communicated to me their decision.

JOHN QUINCY ADAMS.

*Washington, 10th February, 1825.*

#### ROAD FROM PENSACOLA TO ST. AUGUSTINE.

On motion of Mr. CALL, of Florida, the House went into committee of the whole, Mr. TOMLINSON in the chair, on the bill to provide additional appropriations to complete the public road from Pensacola to St. Augustine, in Florida; and also on the bill to authorize the surveying and laying out of a road from St. Mary's river to Tampa Bay, in the Territory of Florida. Mr. C. moved to fill the blank for the sum appropriated by the first of these bills, with \$8000; which was carried. He then moved to fill the blank in the second bill, with \$12,000.

On this motion, Mr. M'COY inquired of the delegate from Florida, with respect to the necessity for the road, its proposed length, and whether the present sum would be sufficient to complete it.

Mr. CALL, in reply, requested the reading of a letter at the Clerk's table. He then rose in his place, and stated, that, at last session, a road had been authorized to be made from Cape Sable, the Southern extremity of Florida, to the Bay of Tampa, which is on its Western coast, and also the marking out a road from St. Augustine to Pensacola. It was now proposed to complete the latter road, which had been marked out, and also to extend the road now running from Cape Sable to Tampa Bay, northwardly, from Tampa Bay to St. Mary's river, where it would meet a road now existing in Georgia. Its length would be about two hundred miles, the whole of which distance it would pass through the public lands, and would thereby greatly enhance their value. He adverted to the difficulty of suppressing piracy in the Gulf of Mexico, Tampa Bay (which was the best harbor in the South of Florida,) being a notorious rendezvous for pirates, as well as for fugitive slaves from Georgia, the Government had found it necessary to establish a military post there. The post, which is to be a permanent one, was now completely isolated. Neither road nor trace led to it, and it had no means of communicating with the Government itself, except by a long and dangerous sea voyage, which would cost more in a single year than the whole sum now asked for this road. Another consideration was that of passing along the coast; it ran near to numerous inlets, now the haunts of pirates and slaves. The presence of this road would be an effectual, and the only effectual means, of breaking up their resort to these places. In a state of war, the Bay of Tampa would be a very important post. As such, the Government had selected it; and it was manifest, that, unless a road was formed, by which troops could march for its relief, it must fall an easy prey as soon as it should be invested by a maritime enemy. The country through which it is to pass, is one of the most fertile regions of the South. Nothing was wanted but a highway, to ensure its rapid settlement. He hoped, therefore, that, whether the road was considered as providing for the defence of a distant and vulnerable frontier, or as calculated to increase the value of the public lands, the sum necessary for its construction would readily be granted by the House. He added, in conclusion, that the plan had been examined by the Committee on Roads and Canals, and received its unanimous approbation.

The blank was then filled accordingly.

The Committee then rose, and reported both bills, and they were ordered to be engrossed for a third reading to-morrow.

IN SENATE—FRIDAY, FEBRUARY 11, 1825.

Mr. TAZEVELL submitted the following resolution: "Resolved, That the President of the United States be requested to cause to be transmitted to J. C. CALHOUN, of South Carolina, Vice President elect of the United States, notification of his election to that office, and that the President of the Senate do make and sign a certificate in the words following, to wit:

Be it known, That the Senate and House of Representatives of the United States of America, being convened at the City of Washington, on the second Wednesday of February, in the year of our Lord one thousand eight hundred and twenty-five, the underwritten President of the Senate pro tempore, did, in the presence of the said Senate and House of Representatives, open all the certificates and count all the votes of the Electors for a President and Vice President of the United States: Whereupon, it appeared that JOHN C. CALHOUN, of South Carolina, had a majority of the votes of the Electors, as Vice President; by all which it appears that JOHN C. CALHOUN, of South Carolina, has been duly elected Vice President of the United States, agreeably to the Constitution.

In witness whereof, I have hereunto set my hand, this — day of February, 1825.

And that the President of the Senate do cause the certificate aforesaid, to be laid before the President of the United States, with this resolution."

On motion of Mr. KING, of Alabama, the resolution was forthwith considered, and was agreed to.

#### TOPOGRAPHICAL SURVEYS.

The Senate, on motion of Mr. SMITH, took up the bill making appropriations for the Military Service for the year 1825.

The Committee of Finance of the Senate, to which this bill had been referred, reported it with a proposition to amend it by striking out the following clause:

"For making surveys, and carrying on the operations of the Board of Engineers, in relation to internal improvements, and in addition to an unexpended balance on hand, twenty-eight thousand five hundred and sixty-seven dollars.

Mr. SMITH, (chairman of the Committee on Finance,) said he was so unfortunate as not to coincide in opinion with the Committee on Finance, as regarded this amendment. It would be recollected that, at the last session of Congress, an act was passed, making an appropriation of \$30,000, to enable the President to cause surveys to be made in different parts of the Union, with a view to internal improvements. Twenty thousand dollars of this appropriation had been expended, leaving a balance of \$10,000 unexpended, and the present appropriation contemplated an addition of \$28,567, to that balance.—Congress, he said, had adopted the principle of making these surveys, and it would be very extraordinary if they should now, after having proceeded so far, and expended so much, make an attempt to retrace their steps. It was on this ground that he had in the committee opposed the proposed amendment, and he trusted the appropriation would not be stricken out.

Mr. JOHNSON, of Kentucky, said, that, if he properly understood the proposition, it was to put a stop to a measure which had been commenced under the authority of an act of the last session of Congress, and one which was of the utmost importance, as tending to facilitate the intercourse between the different parts of the Union, in relation to military and commercial affairs, and in the transportation of the mail. He expressed his utter astonishment at such a proceeding, and could scarcely believe the evidence of his ears. It was, he said, the commencement of a great system of internal improvement, and he presumed that, after it had been solemnly decided on that that system should be commenced, they could not, with any foundation of reason, retrace their

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steps, and hide from the public eye, all that information which would be obtained by the scientific corps of the country. If the money formerly appropriated had been wasted, then there might be something reasonable in the proceeding—but, as no suspicion of that kind had ever been uttered, he felt convinced that this appropriation, so necessary for obtaining that information which was so important as regarded the wealth and power of the Union, would not be withheld.

Mr. MACON, of North Carolina, begged leave to offer a few remarks. In the beginning of this government, nobody believed Congress had any thing to do with internal improvements. Now, every body, almost, was for it. The history of the Cumberland Road proved this. When that road was commenced, the States were to give their consent, and nothing could be done without it. Now, when the road is proposed to be carried through the States beyond the river Ohio, and through Ohio, no consent is deemed necessary; and it seemed now, that Congress could survey States, and make roads, and there was nothing but what they could do. These roads were to be, too, for the transportation of the mail, and for the purposes of war and commerce, but then they managed to effect all these objects without the exercise of this power. If this government, said Mr. M. is to begin this road system, it ought not to be accomplished indirectly, by small appropriations, but should be done at once. By granting an appropriation for surveys, they did not pledge themselves to do any thing more, after these surveys should be accomplished; but, notwithstanding, they were going on step by step, just like the building of this Capitol. He no more knew what was to be accomplished in this great plan, than he did when he saw the first foundation of this Capitol. He was opposed to the whole system, and let Congress vote as much as they pleased in its favor, he should always vote against it as often as it came up. He did not pretend to lay down his opinion as a rule for others, but he should continue to follow it till he found it was wrong. Mr. M. said he regarded this system of internal improvement as one of the most dangerous that had ever been established in the United States. The States should not, he thought, come to the General Government for their internal improvement. Every State had been going on with internal improvements, and he was of opinion that the General Government should leave them to go on in their own way, without intermeddling at all.

Mr. HOLMES, of Maine, said, that, last session, an appropriation of 30,000 dollars was made for a certain specific object. If he was opposed to that, it was not very strange that he should be opposed to the present one, which was a continuation of the same purpose, and more vague in the application of the money. When the bill was reported last year for a specific object, it was bad enough, but it could be defended on better grounds than this could be. Here the money was to be placed at the disposal of the commissioners, without any directions whatever. He thought it would not be pretended that the constitution gave unlimited powers on this subject. When the subject was before the Senate last year, there was not a majority that agreed to the constitutionality of this power of internal improvement, and extent of it; but here the appropriation was without limit at all; there was no bill to introduce or regulate it, but it was thrust into the appropriation bill, and the commissioners were to dispose of it as they please. Mr. H. then referred to the act of last session, and observed that there was still the sum of \$10,000 remaining unexpended of that appropriation, and why they were to add \$28,000 more to it he could not possibly imagine; besides, he had seen enough of this system which they were commencing of making roads and canals, to satisfy him that it would occasion much uneasiness and strife. The Government, he said, was becoming stock jobbers in roads and canals, and it was impossible to say when an

end would be put to it, if they made general appropriations for these general purposes, and gave power to the Executive part of the Government to do what they pleased with or without the consent of the states. They had \$10,000 to go on with, and he thought that amply sufficient; let them expend that, and on making a report to Congress they would then be better able to see how far the Commissioners had gone, and what remained to be done, but having the imperfect view that he had of this subject, he should not consent to give a single dollar. The gentleman from Louisiana, (Mr. JOHNSTON,) had some days before presented a plan for the internal improvement of the country; and if they recognized the power of Congress to do any thing on this subject, they ought not to do any thing till they acted on his proposition. Mr. H. thought there was something fair in that proposition: the plan proposed was that the public lands should be converted into a fund, to be divided into two equal parts, one half to be applied to the purposes of education, and the other half to the plan of *internal improvements* as it was emphatically called, to be apportioned according to the representation of the states in Congress. This, Mr. H. said, would be something like equality; but, as they were going on now, there was not a shadow of it—the money that was gathered in the East would be expended in the West, and the Southern states would get nothing; therefore, he would say, stop this business as soon as possible.

Mr. COBB said, his object in rising was not to embarrass this bill, but simply to state, that, after examining the Constitution—after examining the Journal of the Convention by whom that instrument was framed—and examining the subject in every point of view, with the greatest care and attention—he had come to the conclusion, that the general government had no power to adopt this system of internal improvement; if they *did* possess this power, they possessed the power of doing every thing they pleased, that was not absolutely *prohibited* by the Constitution. And, as this was an important question, he should call for the yeas and nays on it.

Mr. TALBOT, of Kentucky, said, that, last session, this subject was fully discussed. The subject of internal improvement had been sanctioned by both Houses of Congress, and an appropriation had been made for the purpose of procuring surveys: the present appropriation was for a similar purpose, and he thought that they should not stop short in full career. Congress would not exhibit the strange inconsistency of adopting an important proposition one session, and throwing it aside the next; it would not, he said, be compatible with the dignity of that assembly thus to stop short. The roads and canals were not pointed out last session, because it was found impracticable so to do; but it was left to the discretion of the President of the United States to select those which would tend most to the improvement of the nation at large, and, in consequence of this appropriation, the Executive had caused certain surveys to be made. Amongst other great national objects, one was the connection of the waters of the Potomac with the Ohio; the survey of this had been commenced, but was not finished; and was this, asked Mr. T. to be left incomplete? It was to complete this, and similar important objects, that the appropriation was asked for. The Committee on Roads and Canals had ascertained the necessity of it, and they asked now to have the appropriation of last session extended.

Had there been any charge made that the former appropriation had been wasted, or improvidently applied, he would have been satisfied that the present objects were perfectly just; but no allegation of that kind had been made. If they really wished to attain the object proposed by passing the act of last session, how could they now arrest its progress by refusing the small appropriation of \$28,000? The whole of the objects that had been pointed out, were, Mr. T. said, of great national

importance. He did not inquire in what part they were situated, but there was no doubt that the President had made the selection wisely and judiciously. The law that was passed last session was intended to provide for the completion of these surveys, and if it had been imagined that the sum appropriated would not have been sufficient, more would have been asked for, and would not have been refused. Then why should it be refused now? He thought it would be acting very disrespectfully towards the President, to refuse this appropriation, which was to enable him, to complete the surveys which he had commenced or contemplated, in obedience to their law.

As regarded the constitutionality of the subject, that had been most fully discussed at the last session—but, on the present occasion, gentlemen had asserted that Congress did not possess the power. Mr. T. said he thought the majority of both Houses stood committed on this subject—they had expressed their opinion in the most solemn and deliberate form, and they had made an appropriation for the purpose by law; public expectation was alive on this interesting subject; they owed it to the nation to make this small appropriation, and even those gentlemen who now hesitated, and those who originally hesitated, ought to join with them, and vote in its favor.

Mr. SMITH read the first section of the act of last year, directing these surveys to be made, under the instructions of the President of the United States. The subject, he said, had been amply discussed, but he did not think the great constitutional question was determined—indeed, he did not think it was implicated.—Mr. S. then read the following letter in relation to the subject:

ENGINEER DEPARTMENT,  
Washington, 17th January, 1825.

SIR: I have the honor to present to you an estimate of the expense which will attend the operations of the Board of Internal Improvement during the current year, predicated on the supposition that the Board will be employed in reconnoitering and examining the different routes for the great national road from the seat of Government to New Orleans, and that all the Topographical Engineers that can be spared from the survey of the coast, together with Mr. Shriver's brigade, will be engaged in continuing the survey of the route for a canal communication between the tide-waters of the Chesapeake and Lake Erie, with a view to its completion, with the exception of one brigade of Topographical Engineers which will be employed in surveying the route between Buzzard's Bay and Barnstable Bay.

The sum required for these operations is \$38,744, from which deducting the sum of \$10,177, the balance remaining on hand from the last year's appropriation, applicable to these objects, there will be left the sum of \$28,567 to be provided, as will more fully appear by the accompanying statement.

I have the honor to be, very respectfully, your most obedient servant,

ALEXANDER MACOMB,  
Chief Engineer.

To the Hon. J. C. CALHOUN,  
Secretary of War.

Estimate of the Expense of Examinations and Surveys for  
Roads and Canals for the year 1825.

Three Military Brigades, - - -	\$18,585 00
One Civil Brigade, - - -	8,960 00
Repair of Instruments, - - -	60 00
Pay of two Civil Engineers, - - -	7,200 00
Pay of Civil Engineer, attached to the Board of Engineers, - - -	1,320 00
Extra allowance to two Members of the Board, - - -	1,642 00
Ditto to three Assistants, - - -	481 00

Contingencies, Wagons, Pack-horses, Station-  
ery, &c. - - - 495 00

\$38,744 00

On hand, remaining of the last year's appro-  
priation, - - - 10,177 00

The amount required to be appropriated for  
the service of the present year, - - - \$28,567 00

Mr. HAYNE, said, that the gentlemen who objected to the appropriation, had not put the question on its true ground. They had argued as if a general system of internal improvement was now to be commenced, and had even entered into the consideration of the constitutional powers of Congress in relation to that subject. But he would submit, that neither of these questions were now before the Senate. The single inquiry was, whether Congress should make the necessary appropriation for carrying into effect an act passed at the last session?—Or whether, by withholding the requisite means, they would deprive the Executive of the power of executing the law, and thereby render it nugatory? Whether the Senate would undertake in effect to repeal an act passed by both branches of the Legislature, without regard to the forms of the constitution? The act of the last session, said Mr. H. authorized the President to cause surveys to be made of such roads and canals as he might deem of national importance, and necessary for the transportation of the mail, and for military and commercial purposes, and \$30,000 was appropriated towards that object.—Mr. HAYNE was very much mistaken if it was not distinctly understood, at the time the act was passed, that the sum appropriated was merely sufficient to cover the expenses of the year. Certainly, it was never for a moment imagined, that the object of the act could be attained by the small appropriation inserted therein. It was known to every one, that it would be the work of several years, and would cost a considerable sum. The extent of country to be examined, the great importance of the object, and the necessity of employing engineers of the first talents, all go to prove that the inconsiderable sum appropriated was never expected to cover the whole expense of the work. From this view of the subject, it seemed to him to be obvious, that even those gentlemen who were originally opposed to the bill, ought to support the appropriation; for, unless they did so, the surveys not being completed, all that has been already done will be lost.

The gentleman from Kentucky, said Mr. H. had taken an erroneous view of the character and objects of the act of the last session, which, while up, he would take the liberty to correct. That gentleman had said, that the act in question pledged the Senate to prosecute a system of internal improvement, and settled the constitutional question. Mr. H. could not assent to the proposition. The Senate would, no doubt, recollect, that several gentlemen voted for the bill with an express disclaimer of such inferences. A gentleman from Pennsylvania had stated, in his place, that he should vote for the bill, though he did not believe that Congress could act on the subject without the consent of the states. Another gentleman expressly declared, that he would reserve his decision on the question of internal improvement until the surveys were laid before us; and some gentlemen advocated the bill merely for the sake of obtaining the surveys, which would be useful to every department of the National, as well as the State Governments. For his own part, Mr. H. said, he did not consider himself as in the smallest degree committed to vote for a single road or canal which might be recommended by the President under this survey bill. When the proposition should be submitted, it would be time enough to determine how we ought to act.

He had never doubted there were cases in which Congress had power to cut a canal or make a road. Indeed,



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roads have been cut under every administration, and in some cases with perfect unanimity. This power was derived by different gentlemen from various parts of the Constitution. Some considered it as growing out of the military powers, others derived it from the commercial power, and others still maintained that it was necessary for the transportation of the mail. On several occasions Congress had passed acts appropriating large sums for particular works, such, for instance, as the Cumberland Road. Now, the survey bill of the last session merely directed the President to cause surveys to be made of all such roads and canals as were, in his opinion, necessary, for either of these purposes, and to submit the same to Congress. When, said Mr. H. this shall be done, the question will come up for final decision, whether Congress shall enter on the work at all, and on what principles. For his own part, he was free to confess that, if plans of internal improvement were to be prosecuted by the General Government, he hoped it would be by a system, embracing a few great works, altogether national in their character, and in which every state in the Union would have a common interest. But, if we are to be called upon, without any system, to prosecute detached and local works, it was difficult to discover where the business would end, or the extent of the evils which would be introduced. As to the present question, however, Mr. H. felt no hesitation, but should vote for the appropriation.

Mr. LOWRIE, of Pa. said, he had never understood that the bill passed last session, was to be final on the subject; and that the appropriation then made would be the only one that would be required for the purpose of making surveys. No one could suppose that \$30,000 would be sufficient for that purpose. Mr. L. said, he did not object to the principle of this appropriation, but it was necessary to remark that the committee had received no information as to the manner in which the \$30,000 of the appropriation of last year had been expended—that information had not come before them, though there was no doubt that the accounts had been rendered to the proper authorities, and had been properly settled—yet it would have been a satisfaction to him to know what the engineers had done, and how the money had been expended. Mr. L. said his objection went on a very material and important principle, which it would be well for the Senate to decide upon. Amongst the items in the estimate submitted by the Engineer Department, there was an allowance of \$3,600 each, for two civil engineers for one year.

If this were sanctioned, the Executive would have the power of appointing two engineers, with that salary, without the authority of law, and without the usual forms. If they were necessary for the public service, let there be a law passed for their appointment with the approbation of the Senate. Taking the whole appropriation as it stood, Mr. L. said, he could not vote for it, on account of the principles it involved. The usual way was, in calling for an appropriation for any department, to submit the whole in one general estimate to the Secretary of the Treasury, who sent it to Congress, and it was printed; this estimate was not amongst those sent in, and gentlemen had not had an opportunity of turning their attention to this subject. Mr. L. then commented on some other items in the estimate, and contended that some of them were extravagant, and did not grow out of the act of last session. He further thought it proper that the whole business should be executed by the topographical engineers, whose number should be increased if necessary, but he should be unwilling, by making an appropriation, to put it in the power of the Executive to make such offices. Mr. L. concluded by expressing his willingness to increase the appropriation so as to make it equal to what it was last year, but would not go beyond that.

Mr. CHANDLER, of Maine, said, he understood the

gentleman from South Carolina, (Mr. HAYNE,) that the bill of last year authorized the President to go on, from year to year, and that Congress was bound, from year to year, to appropriate the requisite sum. He (Mr. C.) differed from the gentleman. He understood that, when this appropriation was made last year, the President was authorized to direct such surveys to be made as he thought proper during the year, and then to make a report to Congress, that, if Congress were called on for a further appropriation, they might know what had been done. It was important for them to deliberate well before they acted; he, therefore, moved that the further consideration of the bill be postponed till Monday, that the estimates, &c. should be printed, that the Senate might know on what grounds they acted, and, if convenient, the President should be called on by the committee to report what Roads and Canals had been surveyed.

Mr. SMITH expressed a hope that the bill would not be postponed. If it were now postponed, the pensioners would suffer great inconvenience by the delay, nor was there any necessity for its postponement on the ground taken by the gentleman from Maine. Mr. S. thought the gentleman from Pennsylvania (Mr. LOWRIE) had taken a very candid view of the subject. That gentleman supposed that the Engineer Corps would be adequate not only to the common, but to the extra duties. The President had asked an addition to the Engineer Corps, because their number was too small to fulfil all the duties required of them. No such provision had been made, and therefore the Corps could not be adequate to perform these extra duties. It was too late to complain on that subject. Mr. S. then contended that the Executive had pursued the course directed by the act literally, and, in support of this position, quoted the 2d section, whereby the President was authorized to employ two or more Civil Engineers, &c. These Civil Engineers, he said, must have been of much use to the Corps of Engineers, who could not, until lately, have turned their attention to the subject in question. The Executive, in considering the amount of their remunerations, had inquired what had been given them by the different states by whom they had been employed, and had not paid them more. Mr. S. said it was very bad economy, on such important occasions, to take those who would do the business cheapest, and urged the propriety of seeking for men of first rate talent, and giving them a fair recompense: he then concluded by taking up and defending the other items contained in the estimate.

Mr. JOHNSTON, of Louisiana, then rose and represented the impossibility of the Senate being able to investigate and decide on the expenses in detail, of making a survey. It was sufficient for them to make the appropriation, and it would remain with the proper department to regulate the expenditures and apply it properly. If it were left to the Head of the War Department, he would seek out the best talents in the country, and pay them what they merited. Mr. J. said, it would be just as well to bring the estimate for building a ship of war into the House, and inquire the price of the hemp, and tar, and canvass, to see if they could afford it. Did they, in ordering a fortification, inquire the price of brick? Several millions were every year expended under the discretion of these Departments, and why should they, in making this small appropriation, enter thus into the details? He objected to the postponement, because he would not have these details furnished. Had they not sufficient confidence in the zeal and abilities of their proper Departments? If every one were to urge such objections, how was it possible that any measure of legislation could be carried on in that House? He really hoped it would not be postponed for want of the details of expenditure. If they were examined, it would be found that men of first rate abilities

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had been employed during the last year. Their report would be ready in a few days; it was drawn up with great care and ability, and would be presented to the House in a few days. It would also appear that there was not a single part of the instructions but what had been confined to able hands, and had been executed with great industry and ability. The more these details were examined, and the better the subject was understood, so much more confidence would be placed by the House, in the persons who were engaged in this service. They were not only men of science, but had engaged in the undertaking with the greatest zeal. Internal Improvements were the grandest objects that could engage the attention of this country, and they were so felt by all who engaged in so praiseworthy a pursuit.

Mr. CHANDLER again urged the postponement, for the reasons he had before stated, and said, that the statement of the gentleman from Louisiana, that the report would be soon ready, was, with him, an additional and strong reason for desiring the postponement.

Mr. BENTON said he was against the postponement of the bill. He was of opinion it was totally unnecessary to print the details, for they would be as well understood by being read as by being printed. He said he could not see the advantage that would accrue to the country or to posterity, by having these documents inserted in the volume of state papers—and a delay of a few days would go far to defeat the intention altogether. With respect to the observations of the gentleman from Pennsylvania, (Mr. Lowrie,) they were, said Mr. B. very sensible in every thing except the misapplication of the time in which they were made—they ought to have been made the year before, when the bill was in agitation on which the President had acted. At the last session, when the bill was before Congress for investing the President with general authority to select such routes as he pleased, he (Mr. B.) had proposed an amendment, and in doing so, he had copied the act of 1807, under which the Cumberland Road was laid out from point to point by act of Congress, which specified the number of persons to be employed, and the remuneration which each should receive. He had proposed this amendment last session, but it was overruled, and the bill in general terms adopted—the consequence was, that the President was bound to execute it—he was bound to carry the laws of the Union into effect. He could not do it himself—he could not with his own hands lay out these roads—he was obliged to employ competent persons to do it, to whom he was obliged to give adequate salaries. The only question now before the Senate was, whether they should continue in the present plan, or whether they should adopt such an amendment as he had proposed last session, specifying the officers to be employed, and the salary each was to receive. If an amendment of that kind were not presented, he should be in favor of applying the bill as it was.

The question was then taken on Mr. CHANDLER'S motion to postpone, and decided in the negative.

Mr. MACON then rose, and expressed his opinion, that whatever conversation had been held with any Department, could not be delivered to the Senate unless it came officially from that Department. He certainly did not understand the Constitution as some gentlemen seemed to do, that because a thing was once done, it must become constitutional—that was not his understanding of it. He did not recollect in the United States that a single law had been adjudged by the Courts to be unconstitutional. If this were the fact, that the passing of any law made that subject constitutional, then they would be like Great Britain, where the Parliament was omnipotent, and its acts were the Constitution of the country. One remarkable case had been judged one way, and the Constitutional authority was all the other way. This case had never been settled in any other

way, and the decision of the people seemed to have given a character to the Constitution in that particular. Mr. M. inquired of, what use these surveys would be if Congress were not prepared to go the full length. Every state was endeavoring to do something for itself, and if the plans proposed by the General Government, did not accord with the views of the states, the states would never do any thing in it, and all the surveys made concerning roads would be useless. It had been urged that if this law were not passed, an act of Congress would be repealed by the refusal. Mr. M. said, that the sum appropriated, would be expended under the law, but one Congress could not bind the hands of another, to make any appropriation—they were at all times free and independent to do, or not to do, as they thought proper.

If the doctrines he had heard this day, were true, there was no one thing the Government could not do—they were making roads and canals, and before long he should not be surprised if they made a canal for the benefit of the navy. They managed to accomplish all these things under some clause or other of the Constitution, and by and by they would be mixed all up together into a kind of pot-pie. Let any man examine the Federalist, or the debates of the Virginia Convention, and they would find that no such extension was given to any article of the Constitution. How are we progressing? said Mr. M. We get power faster than the people get money. It appears to me that the whole of this thing bears a most extraordinary character—the country is involved, the people are not able to pay their debts; and I do maintain that this country is not in a condition to go on with expensive projects. The appropriation now asked for, is only \$30,000, say gentlemen; but to me, whose dealings at home are in the small way, this appears a very large sum—there is not one man in a hundred, no, nor in a thousand, throughout the Union, who is worth that sum, unincumbered with debts—he is a rich man in the interior of the country who is worth so much.

Referring to the subject of estimates, Mr. M. said the Chairman of the Committee on Finance, with all his sagacity and acknowledged abilities, could not tell him without counting them, how many the committee had received or whom they were from. Every thing was changing in this Government, and they were, in his opinion, doing all business in a very loose manner.

Mr. M. said he had another objection; these Engineers were designed for army purposes. They had no right to divert them from their legitimate duties, by making them Civil Engineers; that formed no part of the contract of the Government with them; it would be like enlisting soldiers to fight, and then setting them to make roads: could they suppose their high-minded officers would like to be going about the country carrying the chain, and taking levels? No. They were raised for fighting, if fighting were necessary, not for making roads.

It was argued, that it was necessary to enter into detail. Mr. M. said they fixed on the places for light-houses and buoys, and they established post routes; they acted from the best information they could get, and in that way they did legislate in detail. He was for less discussion and more legislation, and yet he thought they now legislated ten times as much as they ought to do. He had advised them to legislate concerning West Point; to fix the number that should be there, and apportion them amongst the states. They said it was useless, and he acquiesced, because he knew he had no chance of standing against that committee.

Mr. M. said he would fix every thing he could by law, and leave nothing to discretion. The natural end of all discretion, in his opinion, was favoritism. He should like to see these details published. If the sovereignty were in the people, as was so often boasted in that House, why not let them see every thing, if it was only a bargain

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of seventy-five cents a day? In his part of the country, a man could be hired for twenty-five cents a day, and work hard too, all day long. Let the people see how their money went. The more we legislate in detail, said Mr. M. the better it will be for the people and for the Executive. Nothing could, in his opinion, embarrass the Executive more, than leaving too much to his discretion. If he had law for his guide, he would be sure to be safe; but if things were left to his discretion, that might not probably agree with the discretion of other people, which might produce some trouble and inconvenience.

Mr. M. considered this question as one of the utmost importance to this nation, and he should consider it his duty to stop it, under the full belief that the sooner it was stopped, the better. He had stated, some time ago, that he had relinquished all hopes of seeing the taxes lessened on the people. Every thing appeared as if they were going to be increased—a certain sum must be kept for the sinking fund; that only kept up the credit of the public debt, or it would not otherwise sell; and he began to think now, that the debt would never be paid.

Mr. M. concluded by saying, that he wished to see that day come when this Government would follow the examples set by Britain, (and he did not often go there for examples,) who, during the last few years, had taken off taxes to the amount of eight and an half millions sterling.

Mr. LOWRIE said, that the gentleman from Louisiana, (Mr. JOHNSTON,) had not paid sufficient attention to what he (Mr. L.) had said, or he would not have so misunderstood him. He said that it was not for the Committee on Finance to examine these details, but it would be desirable that the Senate should know what had been done—it was impossible they could legislate correctly in the dark. They were called on to make an appropriation for a certain object, for which an appropriation had been made last year, and they certainly ought to ascertain what had been done with that money, before they appropriated more. He had seen nothing at all of the reports that were spoken of. The gentleman from Maryland, (Mr. SMITH,) had said that confidence ought to be placed some where, but he did not think that confidence had any thing to do with the subject. No complaint had ever been made as to the manner in which the money had been expended, but he wanted to know what benefit the Union had derived from the expenditure of that money. He presumed it had been properly expended, but there was no evidence of this before them. He thought that, if they set out wrong in pursuit of an object, they ought to get right again as soon as possible—if he had known last session, that two Civil Engineers were to be appointed with such salaries, he would not have voted in its favor. He had not received that information till last week—therefore, he would now stop—he would not sanction such principles by voting for appropriations. What were they sent to this House for, if they were not to object to what they thought wrong? It was the duty of every member to state his objections when he saw any thing improper; and as far as the Civil Engineers were concerned, he should oppose any appropriation for them.

Mr. JOHNSTON, of Louisiana, in reply to Mr. MACON, observed, that, as far as they could legislate definitively on any subject, it was very right to do so; but there were some subjects, in which it was impossible so to do—in building the Capitol, had they a bill brought before them specifying the wages that every man should receive, &c.? These things were beyond the capacity of the House to investigate. It was left to the Heads of Departments, to settle all such minutiae, and they sent in their accounts to the proper officers, for investigation and settlement. Mr. J. then referred to the amount of salary intended to be given to the Civil Engineers, and

argued that it was not too much when compared with the great abilities that were required for the purpose, the scarcity of such talent and the great demand for it at the present time. Mr. J. said, that gentlemen did not attack this appropriation in the proper manner—they often lost the substance in pursuit of the form. Last year, a bill was introduced instead of an appropriation; that bill passed, and they refused to go into detail. Now the reverse was the case. If they were to be assailed by all the objections at once that could be started, it would be impossible ever to carry a measure through the House. First, said he, try the constitutionality of the proceeding, and settle that, and then enter into the details, and settle them. He hoped the bill would not be postponed, nor the appropriation struck out. He thought it unnecessary to say any thing further as regarded the principles of the bill—the Constitutional question had been so often discussed, and so much had been said on the subject, that every member must have formed a deliberate opinion. The surveys were important to the country, independent of the Constitutional objection; and he made some remarks on that point.

The question was then taken on striking out the clause, and decided by yeas and nays, as follows:

YEAS—Messrs. Barbour, Bell, Branch, Chandler, Clayton, Cobb, D'Wolf, Dickerson, Gaillard, Holmes, of Maine, King, of New York, Knight, Lowrie, McLean, Macon, Mills, Taylor, Tazewell, Van Buren.—19.

NAVS—Messrs. Barton, Benton, Bouligny, Brown, Edwards, Hayne, Holmes, of Miss. Johnson, of Ken. Johnston, of Lou. Kelly, King, of Ala. Lanman, Lloyd, of Mass. Noble, Parrott, Ruggles, Seymour, Smith, Talbot, Thomas, Williams.—21.

#### HOUSE OF REPRESENTATIVES.—SAME DAY. PENNSYLVANIA DISTRICT COURTS.

The House having proceeded to the consideration of the following motion, yesterday submitted by Mr. ELLIS, viz:

"That the petition of sundry inhabitants of Pennsylvania, praying that amendments be made to the law passed at the first session of the present Congress, entitled 'An act to alter the Judicial Districts of Pennsylvania, and for other purposes,' be recommitted to the Committee on the Judiciary, with instructions to report a bill for the removal of all the causes pending, and untried, before the District Courts of the Eastern District of Pennsylvania, to the Court for the Western District, held at Williamsport, in such cases where the defendants therein, at the time of commencing the said causes, and suits, resided in any of the counties named in the law herein referred to, and in such cases where the parties shall not otherwise agree.

And, also, to confer upon the Judge of the District Court of the Western District, authority to appoint a clerk for the court established at Williamsport, who shall keep the records thereof at the place of holding the court, to be entitled to the same fees and compensation as the clerk of the said court held at Pittsburg."

Mr. ELLIS stated that, in 1802, a petition had been presented to Congress, for the establishment of a Court at Williamsport. After considerable delay, a law was passed, by which eight counties were taken from the Eastern District, and attached to the Western District of Pennsylvania. The court for the Western District had been held, since 1818, at Pittsburg. The bill referred to in the instructions, is intended to provide for the removal of causes pending and untried at Philadelphia, to the Western District. It was necessary to give the House some reason for the removal.

Whoever was acquainted with the geography of Pennsylvania, knew that a range of mountains, forty miles in extent, intervened between Philadelphia and Pittsburg, and a similar range between Pittsburg and Williamsport.

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the greater part of the causes tried before the Philadelphia Circuit, are ejectment cases, in which the question of survey, or no survey, always occurs. Such a question can be made out in ordinary cases only by aged witnesses. Defendants are for the most part poor people—the plaintiffs, capitalists, either foreigners or persons residing in another state. Mr. E. insisted upon the hardness of compelling these defendants to attend a court one hundred and fifty miles distant, with all his witnesses, who were necessary to prove his settlement, who must be obtained at great expense, and without whom he must lose his cause. This, when the defendant was a poor man, was in effect to deny him a fair trial. Congress had done the same thing in repeated instances, to some of which he referred. He knew that it might be said, that this would be legislating on vested rights. That the parties suing in the Eastern District had certain rights which pertained to them as litigants, and which would be invaded by removing their causes to a different District. Mr. E. combatted this sentiment—he insisted that this was not removing their causes to a new tribunal, but trying them in the same kind of a court as that at Philadelphia. As to the objection that counsel had received their fees, this was a personal consideration, with which Congress had no concern. County lawyers were as capable of conducting their suits as those who resided in the city. Agents had been employed, and they must attend wherever the causes might be tried. He trusted the House would not be governed by reasons of this kind—that they would not seek to accommodate the rich at the expense of the poor. What was the very spirit which governed the administration of all laws? That the plaintiff must bring his suit to the defendant, and not the defendant to the plaintiff: So that the exclusion of the present causes from the Western District, was in reality the only novelty, and not their trial there. There was another branch of the instructions on which he wished to submit a few observations. When the court met at Williamsport, one of the first questions which arose, respected the organization of the court. On examining the law, it was found to contain no provisions for a clerk; they did not ask for a judge, or an attorney, or a marshal—all they asked was an efficient organization, and to this a clerk was necessary. Writs, at present, issue from the court at Pittsburg, and are made returnable at Williamsport, and it has been made a question at which of these places the record should be made up. For himself, he believed it might be made up at Williamsport; but, at present, they had to seek a writ from a place two hundred miles off. What they required was a clerk, in order that process might issue at Williamsport, and be made returnable there. It might be said that this was within the power of the judge, but that had been questioned by some, and it was with a view of quieting all doubt on that subject, that he had added the latter branch of the instructions he proposed to give to the Judiciary Committee. He trusted that the House would not put in competition, with the convenience of one-fifth, at least, of the population of Pennsylvania, the paltry sum of \$300 a year to pay the salary of a clerk. He had heard it remarked in conversation, that this would be legislating for the personal convenience of a few, but he asked whether, if it was proper to add the eight counties to the Western District, it was not proper, also, that the causes of those who resided in these counties should be removed into that District.

Mr. LITTLE, of Md. made a few remarks in opposition to the instructions moved by Mr. ELLIS; and

Mr. McKIM, of Md. moved the following amendment, to be inserted after the word "Williamsport:"

"Provided, That the parties who may have causes pending and untied before the District Courts of the Eastern District of Pennsylvania, shall mutually agree to the removal of the same to the Court of the Western District, held at Williamsport."

Mr. WEBSTER, of Massachusetts, (Chairman of the Committee on the Judiciary,) complimented the zeal and perseverance manifested by the gentleman from Pennsylvania, as well in the committee as in the House, in prosecuting this object, which he seemed to consider as important to his constituents. He then stated the reasons why the Judiciary Committee had not thought it a proper subject for legislation. He explained the present situation of the United States' Courts in Pennsylvania, which the committee considered as well adapted to the general conveniences of that state. The instructions seemed directed chiefly to promote the convenience of defendants in the Eastern district. Ought not the House to hear something from the plaintiffs in these causes? At present, it knew not what the causes were—whether they had been tried, whether any verdicts were obtained, whether there were any demurrers, or what was the number of the suits. Even in the small states, the parties had frequently to go as great a distance to court as in the present instance, and, where that distance was greater than one hundred miles, the laws of the United States provided for taking the testimony in writing.

Mr. W. concluded his remarks, by moving to lay the instructions, together with the amendment thereto, on the table; but withdrew the motion, at the request of

Mr. ELLIS, who suggested, that the remarks of the gentleman from Massachusetts, although they might be thought conclusive against the first branch of the instructions had no reference to the second.

Mr. WEBSTER observed, in reply, that the second branch was useless, inasmuch as the power already resided in the judge to have the record made up where he pleased, and to appoint as many District clerks as he pleased.

Mr. ELLIS intimated some doubt on this subject, and Mr. WEBSTER explained.

Mr. ELLIS was proceeding, when the Speaker reminded him that the question before the House was simply on the amendment. Mr. E. made some further remarks, in opposition to the amendment; when,

On motion of Mr. WEBSTER, the whole subject was laid on the table.

#### CONCERNING DRAWBACKS.

The House having, on motion of Mr. CAMBRELENG, proceeded to the consideration of the bill authorizing the Secretary of the Treasury to direct the completion of entries for the benefit of drawback after the period of twenty days—

Mr. FOOT, of Connecticut, moved to amend it in the first clause, which is as follows: "That, whenever the exporter or exporters entering any goods, wares, or merchandise, for the benefit of drawback, shall not have completed such entry by taking the oath, or giving the bond required by the existing laws of the United States, within the period prescribed by law, but shall offer to complete the said entry after the expiration of the said period, it shall and may be lawful for the Secretary of the Treasury, upon application to him, made by the said exporter or exporters, setting forth the cause of his or their omission, under oath, and accompanied by a statement of the collector, of all the circumstances attending the transaction, within the knowledge of such collector, if he shall be satisfied that the failure to complete the said entry, was accidental, or without any intention to evade the law, or defraud the revenue, to direct the said entry to be completed, and the certificates or debentures, as the case may be, to issue, in the same manner as if such entry had been completed within the period prescribed by the existing laws of the United States," by striking out the words "*taking the oath or.*"

Mr. CAMBRELENG, of New York, observed, that, if the amendment proposed by the gentleman from Connecticut should succeed, the bill would amount to a mere nullity. The cases in which merchants were una-

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ble to take the oath were as numerous as those in which they were unable to give the bond, and so frequent were both that there had not occurred a single week, during the present session, in which he had not presented to the House one or more petitions from merchants so situated. Surely, if the Secretary of the Treasury has now power to cancel the bond itself, when given, there can be no great danger in giving him power to remit the penalty incurred by not giving the bond within a certain number of days. This power was to be exercised by the Secretary only when he should be satisfied that the individual applying to him had a good and sufficient excuse for not having taken the oath and given the bond, within the twenty days prescribed by law. That officer is already clothed with power to remit almost every other forfeiture provided by our revenue laws. The restriction which obliges the merchant to make oath and give bond within twenty days, was copied from the laws of England—a country which is not more than twenty miles distant from the coast of France, and which is, therefore, peculiarly exposed to frauds, on the subject of drawback. We are not so situated. The restriction was a substantial measure in England; with us, it is, in a great degree, a matter of form. The cases were numerous, and of daily occurrence, in which it is physically impossible that this part of the law should be complied with. A merchant may die—when it is manifest that he can neither take oath or give bond. Yet his executors cannot obtain the debenture, which is justly due to his estate, without coming all the way to this House, at the risk of waiting here, from year to year, before they can get leave to take the oath or to give the bond required. Mr. C. stated several cases of peculiar hardship which had occurred within his own knowledge.

Mr. LIVINGSTON, of Louisiana, said, that, standing in the same situation with the gentleman from New York, who had last spoken, he was obliged to address the House on the subject of this bill, which would give relief to some of his constituents, who were clearly entitled to it, and, at the same time, relieve the House from the task of examining private claims, and the country from an expense attending such examination, necessarily greater, in many instances, than the amount demanded. The amendment proposed went to defeat the bill, and he was persuaded that the gentleman from Connecticut would not have offered it had he duly considered the necessity of giving relief to the numerous applicants, and the time, expense, and difficulty of conducting the examination in this House.

In order fully to understand the bill, it was necessary to refer to the nature of the drawback of duties, and to the provision made for preventing fraud in granting it. Duties, Mr. L. said, were levied, on the supposition that the merchandise, on which they were paid, was intended for consumption within the United States. It was a tax paid by the importer, in advance, for the consumer, on whom it ultimately fell. As it was uncertain, however, at the moment of importation, whether the merchandise would be consumed or re-exported, the importer was bound to pay or secure the duties; but, in order to give him a reasonable time to execute his purpose of re-exportation, or to deliberate whether it would be more to his advantage to sell here or to try a foreign market, the law provided, that if, within twelve months after the introduction of the merchandise, the importer chose to export it, the government would refund to him (with a small deduction) the duties he had paid or secured.—This was not only just but profitable. It gave a freedom to trade, which was highly advantageous. It made the country an entrepot for commodities not of our own produce, and enabled our merchants to supply one foreign nation with the merchandise of another, as their wants might require. It cherished the shipping interest, and was essential to every operation of commerce. But

this reimbursement of duties subjected the Treasury to frauds, against which the law contains careful provisions. The goods must be exported within the year, and in the same casks or packages; must be laden in the presence of an officer; 24 hours' notice must be given of the intent to export; entry must be made, specifying the merchandise particularly, and annexing the oath of the importer as to the due importation, and that the duties were paid or secured—then, and not until then, is a permit given to lade for exportation. But this is not all; before the debenture (which, as the House knows, is the instrument which entitles the exporter, or his assigns, to receive the amount of the duties paid) can be received, the exporter must make oath that the goods so laden are intended to be exported, and he must give bond, in double the amount of the debenture, that the goods shall not be relanded in the United States, and that he will, within a specified time, produce proof that they have been landed in a foreign country. The law now gives the party twenty days, after obtaining the clearance, to take this oath and give this bond; and these two formalities alone are the subject of the present bill, which does not abrogate them, but provides only that, in case they are not performed within the time, the Secretary of the Treasury may permit them to be done afterwards, in cases, and such cases only, where the delay has proceeded from accident, without any design to defraud. I pray the House to remark, that the bill does not authorize him to dispense with the oath or the bond, but only to permit the one to be given, and the other to be executed, after the time when all the other formalities have been executed. All those which are enumerated are intended for the security of the United States, to prevent the substitution of goods to their injury, to prevent the relanding of them, or other frauds. But these two can never be designedly omitted after the others have been performed, because, until the oath is taken and the bond given, the debenture is not issued, and the exporter gets nothing.

Now, in numerous instances, and several are now before a committee of the House, sometimes accident, sometimes death, and sometimes the neglect of the Custom House Clerks, have deprived the party of the power, after paying or securing the duties, and re-exporting the merchandise, with all the forms required by law, from making the oath and giving the security, which could alone entitle him to the debenture. In all these cases, recourse must now be had to this House. The petition must be read and referred, the committee must examine and report, the House must debate, and if, at the end of two or three years, the unfortunate merchant can procure his case to be considered, we are obliged to give him an order to receive the amount of the duties he has paid, after having put our constituents to an expense equal, in many instances, to ten times the amount of the sum demanded. I say we are obliged, sir, because the money we have received is not ours. The duties were paid under the faith of your law, which directed that they should be repaid on their being again exported, on conditions which, if only unperformed through accident or necessity, cannot be enforced, consistent with the dictates of justice.

Now, the bill proposes a remedy for this expense, for this delay, which is equal to a denial of justice, to this interference of private claims, of affairs of fiscal detail, with the public business of the nation: and this remedy is not an unusual or a dangerous one. Already, by law, the officer at the head of the Treasury is authorized to remit all fines and penalties for offences against the revenue, when he is convinced they have not been incurred with intent to defraud. Without any restriction as to amount, even where the courts have condemned, he may interfere and give relief. Nay, in the very subject now under discussion, a much more extensive and important discretion is confided to him—the important fact



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of the landing of the goods in a foreign country—that on which alone the right to the repayment of the duties is founded; that fact is directed to be proved by specified evidence, in order to avoid the forfeiture of the debenture bond; yet if that evidence cannot be procured in the mode prescribed, and the Secretary is convinced there is no design to defraud, he may, and he every day does cancel such bonds. What reason, then, can be given, for allowing the authority in the most extensive case, and refusing it in the most restricted; for allowing it in cases where, if he is imposed on, great loss may be incurred to the revenue, and denying it where there can be none.

Mr. L. said, as the Representative of an important commercial city, some of whose respectable merchants had already incurred losses for want of the enactment of a law like the present, and where all, even the most prudent, were not secure from similar accidents, he felt himself constrained to make the observations he had offered, and which he hoped might show the propriety of negating the amendment.

Mr. FOOT replied, that he had no objection to the object which gentlemen wished to obtain by this bill. But he thought the bill went much further than the attainment of this object. It would operate virtually as a repeal of our whole system of laws with respect to drawback. Mr. F. argued from the language of the bill, that it would place in the Secretary of the Treasury, if not the formal power of legislation, at least the power of deciding whether the law shall be obeyed or not. It allows the entries to be made at any time after shipment; it assigns no limits for the time, not even the limit of a year, as is required by the present law. But if the bill must pass, let us require at least, that the oath must be taken. We then have evidence that it was the intention of the merchant that the goods should not be re-landed.

Mr. McLANE, of Delaware, (Chairman of the Committee of Ways and Means,) stated, that that committee had long had that subject under deliberation; that he had himself had frequent conversations with the Secretary of the Treasury in relation to it, and that the bill was now brought forward with the design to prevent the waste of the time of this House, as well as to promote the benefit of the person in whose favor it was to operate. He concurred in the sentiment that the amendment would defeat the bill.

Mr. McL. stated that the bill did not dispense with any of the ceremonies at present required by the revenue laws. It left these wholly untouched, but it supposed that, through accidental and unavoidable causes, a person, equitably entitled to drawback, may have innocently omitted some of them. He brought forward and enforced the argument which had been urged by the gentleman from Louisiana. The bill only proposes to change the tribunal, to which the applicant must appeal, and to substitute, in the room of this House, the Secretary of the Treasury. He put the case of an individual who is entitled to receive 1000 dollars drawback; he must come to this House with all his witnesses—he must attend from day to day on committees—before he gets through, it will cost him 1000 dollars, and, after all, the House will really decide upon the word of that committee, and not upon its own knowledge; and, in truth, it was extraordinary that the provisions now proposed, had not been made long since. In many cases, the giving bond within twenty days, is a mere form. In West India voyages the goods are often landed within that time. The substance of the requisition was, that the goods should be landed in a foreign port, and that the certificate of this should be produced before any debenture was given: unless this was forged, there could be no danger of fraud. Yet, it was a remarkable fact, that this essential proof might be dispensed with by the Comptroller of the Treasury. While such a power is given to

a subordinate officer, will you refuse to the head of the Department a power which relates merely to form? It has been a mere oversight in the law not to make this provision. The House need entertain no fear that laxity will arise in the revenue laws. It is the interest of the merchant to take the oath, and to give the bond within the time prescribed by law. The present act imposes upon him a great burden, and one which he will always be glad to shun when it is in his power.

The question was then taken on Mr. FOOT'S amendment and lost.

Mr. FOOT, of Conn. then moved to amend the bill, by inserting, after the word "entry," the words "*within thirty days.*" He protested against the idea of his being an enemy to merchants, (it would be strange if he were, after spending half his life in mercantile pursuits,) but he thought that this House should not only look to the mercantile community, but was also bound to guard the Treasury. He felt great confidence in the honor and honesty of American merchants, but this ought not to induce us to remit any thing of the strictness of our revenue laws. Honest men would not object to these guards, and rogues needed them. The effect of his amendment would be to extend the time of entry from twenty days, as it now stood, to fifty. He approved the object of the bill, and only wished to guard against fraud.

Mr. WEBSTER thought there was no necessity for the amendment, but that the subject might safely be committed, as all the other branches of the act were, to the discretion of the head of the Treasury.

Mr. McLANE and Mr. FOOT made a few more remarks in explanation, when the amendment was lost, and the bill ordered to be engrossed for a third reading. And the House adjourned to Monday.

IN SENATE—MONDAY, FEBRUARY 14, 1825.

The following message was received from the President of the United States:

*To the Senate of the United States:*

I herewith transmit a report from the Secretary of War, with a report to him by the Chief Engineer, of the examination which has been made by the Board of Engineers for Internal Improvements, in obedience to their instructions, of the country between the Potomac and Ohio rivers, between the latter and Lake Erie, between the Alleghany and Schuylkill rivers, the Delaware and the Raritan, between Buzzard's and Barnstable bays, and the Narragansett roads and Boston Harbor, with explanatory observations on each route. From the view which I have taken of these reports, I contemplate results of incalculable advantage to our Union, because I see in them the most satisfactory proof, that certain impediments, which had a tendency to embarrass the intercourse between some of its most important sections, may be removed without serious difficulty, and that facilities may be afforded in other quarters, which will have the happiest effect. Of the right in Congress to promote these great results, by the appropriation of the public money, in harmony with the states to be affected by them, having already communicated my sentiments fully, and on mature consideration, I deem it unnecessary to enlarge at this time.

JAMES MONROE.

Washington, Feb. 14th, 1825.

HOUSE OF REPRESENTATIVES.—SAME DAY.

GEORGIA MILITIA CLAIMS.

On motion of Mr. TATNALL, of Georgia, the House then took up the report of the Committee on Military Affairs, adverse to the Georgia Militia Claims; and the question being on recommitting it to that committee with the following instructions:

"To report a bill making an appropriation for the pay-

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ment of the Georgia Militia Claims for the services rendered in the years 1792, 1793, and 1794 the appropriation to be conformed to the report of the Secretary of War, made to this House upon the subject of these claims in the year 1803, and to embrace each class of claims respectively, as described by that report."

Mr. TATTNALL of Georgia, observed, that, although the grounds of the claim, now under consideration, had been already fully presented to the view of the House by one of his colleagues, during the present session, yet, as some weeks had since elapsed, it was perhaps necessary again to recapitulate them. He should, therefore, in as brief a manner as possible, proceed to do so.

From the documents which have been furnished, it appears, said he, that the facts connected with this case, are, that, in the years 1792, 3, and 4, the militia of Georgia were called out for the defence of the frontier against the hostilities of the Indians; that these militia were called out, in some instances, under the exercise of discretionary power by the Executive of that State; that the Federal Executive, at some moments, gave his express sanction to the exercise of such power; but, at other moments, seemed inclined to limit the extent of the force to be employed in defence; that, hence, some doubts arose as to the liability of the General Government to pay for all services to the extent to which they were rendered; that, subsequently, when the original liability of the General Government seemed to be conceded, it was contended that a stipulation contained in the "Articles of agreement and cession," entered into between the United States and Georgia, in 1802, was intended to embrace this claim, and that, therefore, the General Government is at this time fully discharged from its previous obligation. This, sir, will be deemed to be a fair and frank statement of the facts of the case.

To determine the question of liability on the part of the General Government, we are naturally led to inquire, *first*, whether the Governor of Georgia, was, under the circumstances, acting under the express, or necessarily implied sanction of the General Government; for, if so, the liability, originally, of the General Government to pay for the services rendered, will be conceded. But, if this is found not to have been the case, we are, *secondly*, to inquire whether the circumstances were, of themselves, such as to authorize the Governor, under the constitution of the United States, to act as his discretion might point out. If both, or either of these positions be settled in the affirmative, it only then will remain to inquire whether the clause in the instrument just alluded to, was intended to embrace this particular case, and thereby to free the General Government from a liability, previously existing, to pay for the militia services rendered by Georgia.

*First*, then, did the General Government afford its sanction in a manner which would authorize the calling out of the militia by the Governor of Georgia? Now, this is to be determined only by a reference to the documents before us, but I have no hesitation in saying that such sanction was given.

In the letter from the Secretary of War, dated October 27, 1792, the hostile disposition of the savages is spoken of, and in it is this passage: "If the information which you may receive, shall substantiate clearly any hostile designs of the Creeks against the frontiers of Georgia, you will be pleased to take the most effectual measures for the defence thereof, as may be in your power, and which the occasion may require." In the letter from the same individual, dated 30th May, 1793, the Governor is restricted (from considerations of foreign policy) to defensive operations, but is authorized to increase the force. The following is an extract from it:—"From considerations of policy, at this critical period, relative to foreign powers, and the pending treaty with the Northern Indians, it is deemed advisable to avoid, for the present, effective expeditions into the Creek

country. But, from the circumstances of the late deprivations on the frontier of Georgia, it is thought expedient to increase the force in that quarter for defensive purposes." In the letter of the 10th June, 1793, from the same individual, there is this remarkable passage:—"The State of Georgia being invaded, or in imminent danger thereof, the measures taken by your Excellency may be considered as indispensable. You are the judge of the degree of danger and of its duration, and will undoubtedly proportion the defence to the exigencies.—The President, however, expresses his confidence, that, as soon as the danger which has induced you to call out so large a body of troops shall have subsided, you will reduce the troops to the existing state of things, provided the safety of the frontier will admit the measure."—And so threatening did the Secretary of War seem to regard the danger that he even supposed the militia of Georgia might not be competent to the defence of the State, and therefore authorized the Governor to apply to the Executive of South Carolina for aid. He, at the same time, addresses a communication to the Governor of South Carolina, of which the following is an extract: "The President of the United States has received authentic information from Georgia, of the unprovoked and cruel outrages of parties of Creeks upon the frontiers of that State; and, as it is at present uncertain to what degree the evils complained of may be extended, the President has directed me to request your Excellency, that, in case the frontiers of Georgia should be seriously invaded by large bodies of hostile Indians, you would, upon the request of the Governor of said State, direct such parties of the militia of South Carolina to march to the assistance of Georgia as the case may require, *for the expenses of which the United States will be responsible.*"

Surely, sir, this ought to convince every one that the General Government considered the situation of Georgia as seriously alarming, and that it was inclined to repose every degree of confidence in the discretion of the Governor of that State. The Governor of South Carolina is requested to comply with his requisition—and here, sir, I would put it to the candor of my honorable friend from South Carolina, the Chairman of the Military Committee, to say if such requisition had been made, and if the Governor of South Carolina had complied with it, could he have felt himself authorized to refuse to pay the troops for their services? This is, perhaps, sir, very much of an *argumentum ad hominem*, but my friend must excuse me here for it. The case is a simple one; the Federal Government authorize the troops to be called out if necessary—prescribe that necessity to be judged of by the Governor of Georgia—the Governor of Georgia makes the requisition upon the Governor of South Carolina, and the requisition is obeyed. Could he, could any one here, refuse to pay for the services of these troops? and, if not, in the name of conscience, how can we refuse to pay for the services of the troops of Georgia? Does the mere fact of their being Georgians make so material a difference? If the Governor of Georgia could call out, at his own discretion, and without being dependent at all upon the discretion of the General Government at a distance, the troops of another state, surely, *a fortiori*, he must have had a similar and co-efficient power over those of his own state.

In a letter, dated 19th February, 1794, from Governor Mathews to the Secretary of War, he protests against the orders restricting him to operations of a character strictly defensive. He urges most strongly the necessity of his being permitted to pursue the savages into their own country—to follow them, like wild beasts, to their dens, as the only possible means of completely effecting the security of the frontier. He also proposes a plan of defence, by erecting block-houses along the whole extended frontier line. Now, sir, this complaint proves that Governor Mathews considered himself as acting under the orders of the General Government, and the

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adoption of a part of his proposed plan of defence, (as appears in the Secretary of War's letters to him of the 25th March, and 14th May, 1794,) shews that the Executive of the United States continued to lend his sanction to the services of the militia. These documents, without going further, clearly shew that the Governor of Georgia was vested with discretionary power, adapted to the exigency. This power he exercised; and that it was correctly exercised, may be inferred from the readiness with which the agent furnished rations. These were paid for by the General Government, and that, too without any expression of censure upon him, for affording them. Is not this a conclusive fact, that the militia were properly called out and held in service? They were supplied with arms by the Federal Government—they were regularly mustered into service, and were furnished (as I have said,) with rations. These facts appear palpably in the documents before us, and it is unnecessary for me to weary the attention of the House, by reading them in detail.

It appears, then, that the General Government did authorize the Governor of Georgia to order out troops at his discretion; and, although in one instance, the General Government seemed inclined to withhold its sanction in future, yet, upon the remonstrance of the Governor, he is again assured that he is considered the competent judge of the extent of the danger. Subsequently, indeed, i. e. in 1794, the number of troops is limited by an order from the General Government, and the disbandment of those whose services were not deemed requisite, was (as Captain Freeman, the agent of the War Department, acknowledges,) effected as soon as possible. The situation of the frontier had, however, unquestionably then become changed. All active hostility on the part of the Indians had ceased, and even a disposition to hostility was scarcely manifested. The peace, too, which soon after took place between France and Spain, and which must have been anticipated by our Government, removed one great exciting cause of Indian hostility.—But, it is worthy of observation, that as late as 1795, one twelvemonth after the militia (the pay for whose services is now claimed) are disbanded, the Governor of Georgia is notified by the Secretary of War, that 200 regulars are about to be sent to the St. Mary's River, for the purpose of keeping the Creeks in order. So large a force being deemed necessary at one single point, at a time of comparative peace, would seem to prove that, if the Governor of Georgia had erred at all, it was in not having ordered out a much larger force. Sir, this was the opinion expressed in Georgia, as appears by Col. Freeman's correspondence.

But, even taking it for granted, that no express or necessarily implied sanction of the General Government, was afforded, still the second point which I have made will fix a liability to pay for these services, upon the General Government: for, secondly, the circumstances were, of themselves, such as to fully authorize the Governor (under the Constitution of the United States) to act as his own discretion might point out. And here, sir, I would remark that this clause in our Constitution, which recognizes the exercise, by a state authority, of a discretionary power, in times of imminent danger, is merely affirmative, or declaratory of a right which the God of Nature has given to every man, and which necessarily belongs to every community—which no law can take away, and which might have been exercised in the particular case before us, under the supposed state of things, even if the General Government had expressly forbid its exercise. I would also add, that, *ex natura rerum*, the individual threatened with imminent danger, must be the judge of the force which it is necessary for him to use, and the manner in which it is to be applied to secure safety to himself. Those who are present are alone able to determine the nature and extent of the danger. An individual at a distance, or a

government at a distance, cannot be a competent judge. This in fact is frankly and readily conceded by the General Government; for the Federal Executive, in a letter addressed to the Governor of Georgia says:—"You are the judge of the degree of danger, and of its duration, and will undoubtedly proportion the defence to the exigencies." And, in another letter, addressed to the Governor of South Carolina, that officer is expressly referred to the Governor of Georgia, as the proper person to determine when any auxiliary force should be ordered out from South Carolina. The reason is clear: he is on the spot, and is, therefore, alone competent to determine so important a matter.

Of the existence of imminent danger on the frontiers of Georgia, we can easily convince ourselves, by casting only a hasty glance upon the communications of Governors Telfair and Mathews, and, also, of Col. Freeman, the Agent of the War Department, and of other individuals, also, in that quarter, many of them United States' Military Officers. I will briefly refer to parts of these. And here, sir, I will remark, that the situation of Georgia can easily be conceived. With a frontier of near 400 miles, lined with numerous savages of the most warlike and furious character, and with a sparse population, her defenceless and exposed situation can easily be imagined.

The letter from the Governor of Georgia to the Secretary of War, dated 22d of May, 1792, gives intimation of the hostilities of the Creeks and Cherokees, and urges "exertions towards a general defence." To shew, however, that these apprehensions were also entertained by the United States' Military Officers, I will cite the letter of Maj. McCall, dated 15th of June, 1792, in which he not only acknowledges the danger, but also says, he has found it necessary to call out a portion of the militia in his vicinity. A letter, also, from Andrew Pickens, dated 12th September, 1792, states, that a general war was expected; and a letter from Captain R. B. Roberts, also of the army, expresses great anxiety and the necessity of the militia being called out "immediately and in force." Maj. Gaither, commanding the United States' troops in Georgia, informs the Governor that he, also, has found it necessary to call out the militia to his aid.—With such sanction as this—with the countenance of every United States officer in the State, the Governor would have been wanting in diligence and in fidelity, could he have hesitated a moment. Our frontier was streaming with the blood of women and children—our outer settlements were abandoned in dismay by the inhabitants, and the Governor could not hesitate how to act.

The force to be employed, in defence, was not merely to be measured by the numbers of the enemy, (and these were not few, for they were composed of the two powerful tribes, the Creeks and Cherokees,) but, also, by the difficulty of guarding an extensive and naked frontier. The whole force called out, never, at any one period, amounted to more than from ten to twelve hundred men, and it is absurd to suppose that this could have been disproportioned to the magnitude and pressure of the danger. When it is recollected what forces were deemed necessary to subdue a part only of these very tribes, within a very few years past—when it is recollected that large armies from Tennessee, North Carolina, South Carolina, and Georgia, aided by several regiments of regular infantry, were required, at this late period, to bring but a portion of these tribes, impaired as has been their population, into submission, it may well be conceived what difficulties and what dangers the young and thinly populated State of Georgia had to contend with. With but a handful of United States' troops to aid them, the militia of Georgia, at that early day, were required, by the General Government, to defend her whole frontier. The imminence of the danger is apparent from the many letters upon your files—the extent of it no man can doubt, who has read the history of

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our late war in that quarter. There are other communications on this subject, among the documents, but which I think it unnecessary to allude to. The General Government, indeed, seems to have had but little doubt upon the subject, for it never hesitated to furnish arms, ammunition, and supplies, of every description. In regard to the pay alone was there any hesitation. This hesitation was, evidently, partly produced by the want of regular muster-rolls, and of the Governor's certificate of service—both of which were subsequently furnished; and, in fact, this House would not now have been troubled with the consideration of this subject, had not the mind of the War Department (according to the account of its own agent) been employed at that moment so much by more weighty matters as to prevent any attention to this. I will read an extract from Colonel Freeman's report, which has an important bearing upon this question. He, it will be remembered, was present in Georgia, was acting there as the agent of the War Department, and must have been privy to every fact or occurrence of consequence. [Here Mr. T. read an extract from Colonel Freeman's report to the Secretary of War, stating, in substance, that the Governor was required to give a certificate before the troops could be paid; that they were, in conformity with the orders of the government, employed merely in defensive operations; that the War Department was about admitting and paying these claims, &c.]

In regard to these claims, Mr. Pickering, then Secretary of War, writes, August 1795, to the agent of the War Department, in Georgia, as follows: "The large estimate for services, about which my predecessor doubted, I have looked into, and will immediately further examine. From the complexion of these claims, connected with the Governor's certificate, which I received enclosed in your letter of the 23d of June, I am inclined to think they *must be generally admitted*." Here, then, this officer, after having examined the nature of these claims, and their extent, says, "they must be generally admitted," to use his own words. And again, in a subsequent communication to the same officer, he goes further, and says, "Money for paying the Georgia militia is preparing to be forwarded. No delay will take place that is avoidable," &c.

Mr. Pickering's standing is well known, and his opinion, thus expressed, will, I am confident, have weight.—I think, sir, from the hasty view which I have presented, my second position may be deemed fairly established, viz: that the circumstances were such as fully, of themselves, to authorize the Governor to order out the militia, even without the express sanction of the President. The immense extent of the frontier, the sparse state of the population, the number and ferocity of the savages, the horrid murders of the inhabitants, the frequent depredations upon our settlements, are matters spread perfectly before our view in the documents upon our tables.—That man must be a sceptic indeed, who can doubt of the necessity for the steps taken by the Governor for defence!

The original liability of the General Government being then considered established, the mind of the House will be directed to the ground upon which has principally rested the objection to pay the amount claimed by the citizens of Georgia, viz: that it was embraced in a clause in the "Articles of Agreement and Cession," entered into between the United States and the State of Georgia, in 1802, which clause provides for the payment of 1,250,000 dollars, "*as a consideration for the expenses incurred by the said state in relation to the said territory*," alluding to the territory ceded by Georgia, and now forming the states of Alabama and Mississippi.

Now, sir, we deny that these words can have a bearing upon the claim which is now before us. The "Articles of Agreement and Cession" had nothing to do with these militia claims of the citizens of Georgia. This in-

strument was formed for the purpose of ceding a large portion of the territory of Georgia, for certain valuable considerations, such as the payment of upwards of a million of dollars, and the extinguishment of the Indian title to her remaining Indian territory, at the cost of the United States.

Mr. Lincoln, in a letter dated December 30th, 1803, rests his objection to the payment of these claims upon that clause of the instrument which I have just recited, and which states that 1,250,000 dollars are to be given by the United States to Georgia, "*as a consideration for the expenses incurred by the said state in relation to the said territory*." Now, sir, notwithstanding this gentleman deems it necessary to travel *dehors the record*, in order to obtain what he considers the proper construction, I think we shall, in accompanying him, still come to the inevitable conclusion, that this instrument has no more bearing upon these claims than the Koran has. Mr. Lincoln had been one of the Commissioners on the part of the United States, in framing these "Articles of Agreement and Cession." He was, also, at the time he gave his opinion Attorney General of the United States, and was, besides, a gentleman of acknowledged high respectability. His opinion, therefore, had he given it in positive language, would have been entitled to confidence. But, sir, his opinion is entirely argumentative, and rests upon mere supposition and very imperfect recollections. It is not given even with any degree of confidence. He sees very indistinctly the grounds upon which it is based. In fact, sir, he moves in a fog from the beginning to the end of his letter. He says, "Having no authority to determine whether the consideration for the expenses incurred by the State of Georgia, in relation to the ceded territory (as expressed in your first question) ought to be so construed as to include an allowance for the defensive operations carried on by the Executive of that State, under the sanction of the General Government, in the years 1792, '3, and '4, I can only, in compliance with the request of the honorable Committee of Claims, state to them my private ideas and recollections on the subject." And what, pray, are these "*private recollections*?" I have said they were imperfect. Take his own words for that matter. After stating that these very claims were, he thought, spoken of, at the time of forming the "Articles of Agreement and Cession," by the Georgia Commissioners, he acknowledges (and I will add in a manner honorable to him from its candor) as follows:—"I have not been able to recollect the precise words which either party made use of on this occasion, and therefore cannot now say that *my impressions were correct*." Now, sir, what does the other United States' Commissioner, Mr. Gallatin, say? Why, that he recollects nothing at all about the matter. One witness, then, called to explain the meaning of an instrument, says he knows nothing about it, and the other, that he believes it means one thing; that this belief is founded on his recollections, and that those recollections are imperfect! On the other hand, opposed to Mr. Lincoln's imperfect recollections of the matter, we have the positive assertions of the Georgia Commissioners. Mr. Lincoln's letter gives no fact. He merely infers that this debt to these militia claimants must have been alluded to, from the fact of his not recollecting what other debts of the State of Georgia could have been alluded to. The Georgia Commissioners, on the contrary, are perfect in their recollections and positive in their statements. They are not driven to the necessity of arguing upon the subject. They have a distinct recollection: Mr. Lincoln has none. I will read their certificate, and will add here, that the standing of these two distinguished individuals is familiar to all of our older members in Congress. [Here Mr. T. read the certificate of Messrs. James Jackson and Abraham Baldwin, which, in substance, stated that the claims of the militia of Georgia during the years 1792, '3, and '4, never were

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estimated by them as any part of the consideration money for which the "cession" was made, and never were included in any manner in the instrument making that cession, &c.] Here, sir, is a positive assertion, which must obtain. These gentlemen (which places the matter beyond all doubt) say that the present claims could never have been intended to be embraced by the instrument alluded to; for, if they had so desired it, they had no power from the Governor of Georgia, whose agents they were, to have consented to such an arrangement.

It is worthy of remark, that the only item of "expense" which Mr. Lincoln can recollect as alluded to in this instrument, is this claim. Now, the disputed part of these militia claims does not amount to \$130,000; whereas the amount spoken of in the instrument is a million and a quarter! So much, sir, for Mr. Lincoln's recollections on this subject!

It has been sometimes asked, if these claims for militia services were not intended to be embraced by the clause of the instrument relied upon for the support of Mr. Lincoln's opinion, what "expenses" of so great magnitude, could have been meant? I confess, sir, I agree with my colleague, that this is a question which we are not bound to answer. It is quite sufficient that we show the claims, now under consideration, were not alluded to; and this is clearly demonstrated, not only by the phraseology of the instrument itself, but also by the positive and solemn attestations of the two Georgia commissioners. But it happens to be in our power to satisfy gentlemen, even on this point. The state of Georgia had, previous to the adoption of the Federal Constitution, incurred very heavy expenses in the defence of her territory, of which the lands ceded by her to the United States formed a part. An instance has been already cited by my colleague, where she was saddled with a considerable debt, for services rendered by her militia. These services unquestionably were the militia services, which Mr. Lincoln says, were spoken of by the Georgia commissioners. This fact is clearly demonstrated by a reference to the acts of the Legislature of Georgia. In the year 1787, three thousand men were directed to be raised for the defence of the state against the Indians. In the same year, another act was passed, giving to the officers and soldiers composing this force, near 2,000,000 acres of land, to be located in the western part of the territory, then in the occupation of the Indians, and subsequently ceded to the U. States. Upon the subsequent cession of this territory, the Legislature of Georgia consented to pay a commutation price of two shillings and sixpence per acre. Now, sir, as this ceded territory, without some arrangement specially in regard to it, would have passed into the hands of the Government of the United States, *cum onere*, it became necessary that the General Government should remove the embarrassment, by stipulating the payment of a sum of money to satisfy the claims of the citizens of Georgia. I would also add, that, besides this large bounty of land, (the commutation price of which was upwards of a million of dollars,) the state of Georgia incurred the additional expense of paying these troops, of clothing them, and supplying them with arms, ammunition, and rations; and, in short, she had to encounter all the expense incidental to an army in the field. These few remarks will suffice to show, that other expenses than those supposed by Mr. Lincoln were had in view in the insertion of this clause in the "Articles of Cession."

The fact is, sir, the state of Georgia never conceived the possibility that she would be made liable for these claims. She never considered herself as having "incurred any expense" in the unfortunate Indian war alluded to. She formed a part of the Union, and was entitled to protection from the Union. She was indeed the part most seriously wounded by the savage incursions, but was, (as her Governor Mathews styles her,) a "picket" or outpost for the other and more interior

portions of the common country. She had indeed to meet the danger, to bear the brunt of the war. 'Twas she indeed that heard the yell of the savage, and felt the blow of his tomahawk; but, in the name of justice, add not to her calamities the burthen of the expense of her defence.

To sum up my views upon this subject in a few words: I would observe, in conclusion, that the General Government gave its sanction, the documents fully prove; that the Governor could have acted without this sanction, is evident from the situation of the Georgia frontier; that the force ordered out by him was not disproportioned to the magnitude of the danger, is apparent, when we look at the extent of the frontier to be defended, and when we have the General Government's own estimate of the danger, which supposed it not unlikely that the militia of Georgia might be inadequate to the defence, and that it might become necessary to look to South Carolina for aid; and when it is recollected that the whole force (never exceeding from 10 to 1200 men) employed at any time, must have been far, very far indeed below the disposable force of Georgia alone, and that it was certainly a mere petty detachment, when compared with the immense regular and militia forces employed in the Creek nation alone during the late war. That the "Articles of Agreement and Cession" had nothing to do with their claims for services, is manifest from the phraseology of the instrument, even independently of the positive assertions to that effect, of the Georgia Commissioners, and that, consequently, the General Government has no plea for refusing to discharge them. Sir, I repose with confidence, in the justice of this House, and I trust that the time has, at length, come, when the state of Georgia is no longer to be found knocking at your doors for the humble pittance due to her citizens for services rendered to the General Government.

Mr. FORSYTH wished distinctly to understand the ground on which the claim had been resisted by the Committee on Military Affairs.

Mr. HAMILTON (chairman of that committee) in reply, called for the reading of the report of the Military Committee in 1802, of the Committee of Claims, and also of the Military Committee of last session.

[These reports were read accordingly.]

Mr. H. then, in a few words, stated the views of the committee in rejecting the claims.

Mr. MALLARY, of Vermont, observed, that this subject had been before congress in different forms, since he became a member. From the anxiety with which it was urged, on the part of its friends, and the constant indecision of the House, he was induced to give it a particular examination, so as to be prepared to act decisively upon it. He would endeavor to be as concise as possible in the views he should present to the House.

It is alleged by the claimants, that they were called into the military service of the United States during the years 1792, 1793, and 1794, to defend the Western frontiers of Georgia, against invasion by the Indian tribes. It is admitted on all sides, that the service was performed in the most energetic and patriotic manner. That there now remains due about one hundred and forty thousand dollars. More than thirty years have elapsed since the Georgia soldiers were entitled to remuneration. Their rights have been evaded so long, that they have almost lost the power of exciting any interest in their favor. But it is not too late to perform an act of justice to those who may survive, or the descendants of the defenders of the state.

Mr. M. said, he would ask the particular attention of the House to the inquiry, by what authority were the citizens of Georgia called into service? Was it by orders emanating from that state, or from the Government of the Union? If it was derived from the General Government, it must of necessity be responsible.

The documents before us afford conclusive evidence



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that, previous to the Militia being called into service, the frontiers of Georgia were threatened with all the horrors of an Indian war. Already was the tomahawk raised. Massacres in the advanced settlement had taken place. A well founded alarm spread through the state. Measures of resistance were no longer to be delayed. A full knowledge of the dangers of the frontier were fully known to the Government of the Union. Its duty was manifest; its decision was prompt and energetic. Mr. Secretary Knox says, in his communication to the Governor of Georgia, dated October 27th, 1792, "I have the honor to inform your Excellency, that it appears, by information from Governor Blount, dated the 7th instant, that the five lower towns of the Cherokees, on Tennessee river, containing perhaps from three to five hundred warriors, have decided on hostilities against the United States. They are aided by a number of banditti, Upper Creeks, and their first object is probably the Cumberland settlements." In the same, the Secretary says, "If the information which you may receive shall substantiate, clearly, any hostile designs of the Creeks against the frontiers of Georgia, you will be pleased to take the most effectual measures for the defence thereof as may be in your power, and which the occasion may require. In such an unfortunate event, however, I will thank you for the earliest information, by express, of the circumstances of the invasion, and the force called into activity to repel the same."

On the 8th of May, 1793, the Governor of Georgia states to the Secretary of War, that, "such is the havoc and carnage making by the savages on our frontiers, that retaliation by open war becomes the only resort," &c. The Governor states the force he had called into service, and considers it indispensable. On the 10th of June, 1793, the Secretary of War replies to the Governor of Georgia, that his letter of the 8th of May had been received and submitted to the President of the United States. The Secretary also says, "The state of Georgia being invaded, or in imminent danger thereof, the measures taken by your Excellency may be considered as indispensable." Numerous are the passages from the papers before us, to prove that the General Government conducted and controlled the military operations in that quarter. Again, sir, said Mr. M. we find repeated detachments of regular troops ordered to the frontiers, and co-operating with the militia. We find the General Government furnishing every kind of arms, ammunition, and military stores for the Georgia Militia. They were provided for by the nation while in the field, and no intimation was ever made, that the state was accountable. Now it is pretended that the pay of the troops belong to Georgia. Is this just or equitable? With such a statement of facts, which cannot be denied with a semblance of truth, is Georgia to bear the burthen, or her citizens to be cast off unrewarded?

Permit me to advert to the duty of this Government and the rights of a state, which should remain inviolable. This Union was formed for common defence. Whenever any portion is invaded, it is an invasion of the Union. Whatever threatens one part, involves the whole. Whether invasion touches the frontiers of Vermont or Georgia, it is an invasion of the Union. The General Government having under its control the revenues and resources of the nation, to that the constitution allows us to look for the power to repel that invasion. The resources and revenues of a state would be ruined in a single campaign, if left alone.

Permit me, said Mr. M. to refer to another provision of the constitution. A state is prohibited from engaging in war, "unless actually invaded, or in such imminent danger as will admit of no delay." If this imminent danger of invasion exists, a state may prepare to resist it. But can any one say, that this is to be at the expense of the state? No, sir; necessity requires state authority to act, to perform a duty which belongs to the Govern-

ment of the Union. The state authority, on such occasions, becomes the agent of the nation. It acts in behalf of the nation, until the immediate powers of the General Government can be called into action. Had, therefore, the Governor of Georgia seen a sudden approach of the barbarians upon the frontiers of his state, he would have been justified in military preparations to meet it.

How much stronger is the claim in question by the evidence before us, than if the military preparations had been made by the Governor of Georgia, while acting under his own discretion. He might have been told that his state was in no danger of invasion. The soldier might have been told that the state was terrified by an empty alarm. But, sir, he cannot now be doomed to meet such an objection. The Government of the Union did authorize the measures of defence of that state. The Governor was directed, as Commander of the military force of Georgia, "to take the most effectual measures for the defence thereof, as may be in your power, and which the occasion may require." When he had adopted his measures, the Secretary of War, as has been mentioned, submitted them to the President of the United States, and he says, "they may be considered indispensable." What more can be required to give validity to the measures adopted by the Governor of Georgia? What more could have been done to give the soldier a just claim on the United States for his scanty pay? Suppose the Governor had abused the orders of the General Government, were the militia to blame? Are they to be held responsible for the mistakes or errors of their commanders? It would be a violation of military rules. But there has been no error or mistake. Nothing has been done but what the occasion demanded.

Sir, said Mr. M. having shown that the occasion was such as demanded the interference of the General Government, and also, that it did direct and control the military operations in Georgia, we are prepared to decide on the rights of the soldiers and the duty and obligation of the nation. It would seem as if the conclusion was irresistible, that their claims for payment are on the Government of the Union—that they can look to no other source for the just reward for their services.

Sir, it appears that these claims were admitted as justly due from the Government, by the accounting officers in 1794. By the Secretary of War, Mr. Pickering, in 1795. By the Secretary of War, Gen. Dearborn, in 1803. The first opinion of the Executive seems to have been decidedly in their favor.

The next inquiry is, have these claims been discharged? And has the National Government been exonerated from its original responsibility? By the report of the Military Committee it is alleged, that, by the articles of cession by which the Western Territory of Georgia was transferred to the nation, the Government of the Union was wholly discharged from the payment of those claims. Allow me, sir, to ask the House to give this point an attentive examination.

It seems this defence was urged by the Committee of Claims in 1803, and continued in the Reports of 1822 and 1824. They have all been referred to by the Military Committee, who last reported, and all the decisions made by those reports have been adopted. Let us, for a moment, examine the grounds of the report of the Committee of Claims of 1803. It states that, "by the Convention concluded between the United States and the State of Georgia, relative to the cession of the territory therein described, the sum of \$1,250,000 is stipulated to be paid by the United States to the State of Georgia, "as a consideration for the expenses incurred by the said state in relation to said Territory." Several inquiries now present themselves to the mind. One is, do the terms of the Convention embrace the claims of the Georgia soldiers? If they do not, were the claims in fact embraced in the negotiation and settled by convention?

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Should those claims appear to have been included in the terms of the convention, or actually adjusted by the Commissioners, how ought that, in justice and equity, to operate as a discharge of the obligation of the United States to the militia who performed the service?

The Government agree to pay Georgia 1,250,000 dollars, "as a consideration for expenses incurred by said state in relation to said Territory." If any reliance can be placed on the documents before us, and to which a reference has been made, how can any one for a moment suppose that the state of Georgia conducted the defence of her frontiers, independent of the General Government? The Secretary of War, by his letter of 27th October, 1792, expressly authorizes the Governor of that state "to take the most effectual measures for the defence thereof." Afterwards, the Governor gives the Secretary of War information of the measures adopted for defence, and the Secretary replies, under the authority of the President, that the measures taken by "his Excellency may be considered as indispensable." How is it possible for any one to imagine that those measures were upon the responsibility of the state? When it appears that all the supplies of every kind were furnished by the General Government, how can it be inferred that the pay of the troops was a claim on the state? Again, sir, how can the defence of the frontier of that state differ from the defence of the frontier of any other? It can make no difference whether the state is in danger of Indians or Europeans. If every state must defend its frontier, of what benefit is the Union? If such is our condition, the arm of the nation can never be exerted. Individual states alone must suffer invasion. The true ground is, that, for purposes of defence, the states form one solid empire. When one part is invaded, the whole is attacked, and must be defended by the whole. The invasion of Georgia was an invasion of the Union, and the Union was bound to defend her at our common expense. The expenses of the Georgia militia could not, in justice, have been incurred by that state in relation to her territory. If not, they are not embraced in the Articles of Cession.

The committee, in their report of 1803, further report, that, "in their view, whatever shape it may assume, and whether originally well-founded or not, it is virtually a claim on the state of Georgia. The militia were called into service by the Executive of that state, and, notwithstanding the ulterior responsibility of the General Government, the state must be considered as accountable in the first instance, for the expense incurred." This doctrine is as unjust as it is erroneous. The militia of the Union, placed under the control of the General Government for purposes of general defence, and yet, when called into service by the nation, the state to which they belong must, "be considered accountable in the first instance!" The state authorities must obey the orders of the commander in chief of the nation, and then be compelled to pay the expenses! Such is the reasoning of the committee, to force the claims within the influence of the terms of the convention. Again, sir, what was the practice of the Government during the late war? Were not orders given to the Governors of the several states, when militia were wanted for service? Did not they in turn issue their orders to those whom they commanded? What would have been the answer of the states to the doctrine that they were answerable, in the first instance, to their citizens, thus called into service? Would it not have been met with the warmest indignation? No such idea was ever entertained by the General Government, on the one hand, nor feared, on the other.

But, sir, we have been told that these claims were, in fact, included in the convention with Georgia. This will depend upon the evidence before us. Should it so appear, the claims are groundless, and should be instantly rejected, let the language of that convention be

what it may. The only document before us, as evidence on this point, against the allowance, is the letter of Mr. Lincoln, the late Attorney General. He is asked by the committee whether the commissioners "considered the present claims satisfied by the convention, and what, in fact, were the particular expenses referred to in the articles of cession?" He says, "I can only state my own impressions." He also observes, "it is perfectly recollected, in the course of the negotiation with the commissioners on the part of Georgia, &c. they stated as a reason why an allowance to a certain amount ought to be made them out of the proceeds of the ceded territory, that their state then had a debt which had been incurred for military services in defence of the state, or of the ceded territory; and which, on application, the United States had unreasonably refused to allow them." He says he had no knowledge of the expenses in question, until they were then disclosed. But he finally remarks, "It is impossible for me to say what influence the minds of the other commissioners, or what weight the recited circumstances had, in conjunction with other considerations, in reconciling my own mind to the sum finally agreed on." Could any one, for a moment, take this as evidence that the claims were allowed? Is here the assertion of a single important fact? There is nothing but impressions of the mind, and they of a character wholly unsatisfactory to the mind of Mr. Lincoln himself. The amount of the claim is \$140,000, the sum allowed is \$1,250,000. Of what was the balance of this last sum composed? There must have been claims to nearly ten times the amount now asked for, included in the adjustment. Mr. Lincoln offers no impressions on this point.

Permit me now to call your attention to the evidence on the other side. Mr. M. desired the House to examine the statement of James Jackson and Abraham Baldwin, commissioners on the part of Georgia. They certify that the claim of the militia of Georgia, for services under the United States, on which the Secretary of War has reported, and is now before the Committee of Claims of the House of Representatives, never was estimated by us as any part of the consideration money for which the cession was made, or included, in any manner or shape, in the same; and that it was out of our power to accede to such construction." Here we have the most decided and express declaration of those who acted with Mr. Lincoln—the one giving a confused and doubtful impression, the others giving a clear, unequivocal, and prompt denial.

Mr. MALLORY denied the right of the House to call on Georgia to allow what claims were adjusted. It was sufficient that it was made to appear that the amount in question had never been discharged. But the gentleman from Georgia (Mr. TATNALL,) who has just addressed the House, has fully shown the reasons for the allowance of the sum of \$1,250,000. She was in debt to her citizens to an equal, to even a larger amount than she received from the General Government. That debt had been contracted before her admission into the Union, for her own defence, as well as for the protection of her extended territory. It would seem that the explanation already offered will be entirely satisfactory.

Here, sir, we have the question, so far as relates to facts, reduced to a narrow compass. We have an obscure impression of one of the commissioners, that the claims were, or might have been, included in the settlement; we have the unqualified denial of the other two, that they were included. We have a full exposition of those claims which were embraced in the convention, and those under consideration are not among the number.

But, suppose, sir, that these claims had been named in the convention, and that Georgia had agreed to make full compensation to her soldiers, what would have been the effect? The claims of the militia for compensation from the nation must be considered as well founded.

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They had no right to demand it of Georgia. Has, then, that state the power, if she should make the attempt, to discharge the General Government from its original obligation to the soldiers, without their own approbation and consent? It is firmly and confidently maintained that she has not. The military service was by virtue of a contract between the Government and soldier. It is a personal engagement to the Government. The Government becomes bound, on its part, to comply with all its stipulations. By what authority are his rights against the General Government annulled and transferred against the state? The attempt is clearly a violation of the constitution. That declares that no state shall pass any law impairing the obligation of contracts. Can a state indirectly impair the obligation of a contract which directly it is unable to do? Can it effect by a convention what it cannot accomplish by a full exercise of its sovereignty in an act of legislation? But, sir, it appears that the validity of the articles of cession depends entirely upon an act of legislation. After the Commissioners had agreed upon the terms, they were expressly ratified by Georgia, through the medium of her Legislature. On this alone the convention depends for its binding force on Georgia and the nation. It is an act of legislation which is used to destroy the rights of the militia, pursuant to their contract with the nation, and, therefore, by the constitution, an absolute nullity, so far as those rights are involved. The militia have never assented to that arrangement. They never ceased to look to the United States for their compensation. If the United States have made any agreement with Georgia which she refuses to fulfil, the United States alone can call her to account. It is unjust and cruel to require the old soldiers to seek redress where they know they have no claim, and where it has been unceasingly and irresistibly denied.

It seems to be clear, said Mr. M. that the General Government authorized the call for the militia and the continuance of their services; that the state of Georgia is under no obligation to remunerate them, and it would be unjust to require it; that the claims were never embraced in the articles of cession, nor were they intended to be by the contracting parties; that, had the attempt been made to compel the militia to depend for their pay on Georgia, without their approbation, it would have been a direct violation of their rights and of the constitution; that it is due to the honor and good faith of the nation that the General Government should make a prompt provision for the payment of the claims.

Mr. FORSYTH then said, that the present subject had been so long before Congress, and was of so much interest to the state he had the honor, in part, to represent, that, late as the hour was, and anxious as the House very probably might be for an adjournment, he nevertheless, felt himself compelled to make a few observations respecting it. He should confine himself to the points immediately in dispute. He was conscious that the individuals now claiming before the House, were so situated, that they can scarcely expect to obtain justice. He knew that there existed in this House the strongest prejudice against them. Nor was this very surprising: for it could scarcely be considered that the Government of the United States could have refused a just claim for so long a time as thirty years. It was natural to conclude that there must have been some powerful reason for rejecting this claim for such a length of time. But nothing was necessary but a fair statement of facts, to satisfy any candid man that the denial of the claim was unjust, and that every moment's delay did but increase that injustice. He did not mean to charge the House with intentional wrong, but he presumed it must have arisen from inattention, from carelessness, or from the pressure of what was deemed more important concerns. He trusted that the claim would now receive a full and fair examination.

Two classes of persons present their claims to Congress.

The first for services *specially authorized* by the War Department.

The second for services rendered in consequence of orders from the Governor of Georgia, acting under a *discretionary power* from the War Department.

All the troops *specially authorized* were paid in 1794, except one company, to whom there was still due 13,000 dollars. This sum was not paid because a dispute had arisen between the Captain of the Company and the Military Commander of the United States' troops in Georgia, which prevented a regular authentication of the pay rolls. The pay rolls have since been authenticated. About this sum no dispute ever occurred. It was acknowledged to be due in 1794. Why is it not allowed? Because the committee, confounding the amount with that claimed by those whose services were said not to be authorized, had examined the subject as if there was but one class of claimants, and the conclusion against the latter had been gratuitously applied to the former.

Although widely differing in the view taken by the Military Committee, there was, in reality, no difference in principle between services specially authorized, and those performed under a discretionary power from the United States. And Mr. F. was willing that the whole should stand or fall together. That the petitioners, or their ancestors, had performed services, was not denied; they were entitled to their daily pay, and the question was, who was to make that payment? In order to remove some of the prejudices against the claim, founded upon its antiquity, he would state from the documents, that all the other expenses of that day in Georgia, connected with their militia claims, were paid by the United States. The provisions, the forage, the transportation, every thing had been paid out of the Treasury of the General Government, save only the daily pittance of the militiamen.

Like services performed by Major Orr and Col. Sevier, from the territory south of Ohio, have been paid under an act of Congress.

Nothing was left unpaid of the expenses of that day, but the sum to his unfortunate countrymen. The cause of the failure to pay them in 1794, was to be found in the documents in his hand. The Accountant in the War Department, after a correct summary of the facts, concludes his report to the Secretary of War with this opinion: that the services of the militia in 1792, 3, and 4, were authorized by the General Government.

The Secretary of War, laying the subject before the President of the United States, discloses, with sufficient distinctness, in his letter to the President, the causes of his doubting the propriety of making the payment. He says, a portion of the amount is for offensive operations, in direct contravention of the President's orders, and tending to embarrass the United States in an unnecessary Creek war. In this letter of the Secretary of War there is both an error of fact and of principle—an error which is to be found in the report of the Military Committee. There were no offensive operations by these militia; the certificate of Governor Matthews on this point is conclusive.

[Mr. F. read extracts from the Governor's letter to Maj. Freeman, of the 8th of May, 1795.] "All the services performed were for defensive purposes," &c. "I feel myself justified in saying the service was indispensably necessary."

This certificate was altogether unnecessary if the Governor had a discretionary power to call out the militia; the use made of them when in the field, did not change the obligation of the United States to pay for their services. The soldier is bound to obey the commands of his officer—the officer is responsible to the Governor

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for his conduct; to refuse the private soldier his pay for the fault of his commander, is to punish the innocent and to suffer the guilty to escape unscathed. Was it denied that the Governor of Georgia had this discretionary power? The opinion of the Accountant was, that he had. The documents show that it was vested in him, not only to call out the militia of Georgia, but to call upon the Governor of South Carolina for aid from the militia of that state, in case of emergency. The Military Committee, itself, speaks of the discretionary power of the Governor of Georgia. The contractor of the U. States furnished the troops, under the conviction that the Governor had authority from the United States to call out the militia. He gave notice to the Secretary of War that he was furnishing supplies for the militia service. He was not commanded to refrain, and his accounts were paid without dispute.

It is now too late to deny a liability to pay what was demanded in 1793. But a new ground of opposition to these claims was discovered in 1803. A Committee of this House fancied that these claims were adjusted in the contract between the United States and Georgia for the cession of the territory comprising at this day the states of Mississippi and Alabama. The United States stipulate, as part consideration of that cession, to pay \$1,250,000 out of the nett proceeds of the land ceded, "in consideration of expenses incurred by the said state in relation to the said territory." These magical words, in the judgment of the committee of 1803, as in that of the Military Committee of this Congress, paid off these militia claims, or at least shifted the responsibility upon the state of Georgia. In support of this opinion, as the words themselves bear no such construction, resort was had to Mr. Levi Lincoln, the Attorney General, who was one of the Commissioners who formed the contract of 1802. This letter of Mr. Lincoln is a mere opinion, founded not upon the instrument, but upon his vague recollections of some conversations with the Georgia Commissioners. As a matter of evidence, it weighs not a feather, as it is expressly contradicted by the positive declarations of two gentlemen, in every respect his equals. They speak from perfect knowledge of this subject. These gentlemen state that these claims were not included, because the state of Georgia never acknowledged herself liable for them. That the Commissioners had no authority to stipulate about them, and did not stipulate for their payment or assumption by Georgia. It is not possible for any unprejudiced man to read the letter of the Georgia Commissioners, and believe that these militia claims were intended to be included in the words quoted from the act of cession. It is admitted, however, that, in drawing up articles of any compact, between States or individuals, the intention and the act are not always the same. The parties intend to do one thing, and sometimes do a very different thing. This may arise from the superior adroitness of one of them in the use of language, or from carelessness in the choice of words. In the present instance, neither can be supposed; all the persons engaged in forming the compact of 1802, were gentlemen of astute understandings and pure characters. There was no design to entrap—there was no want of care. The words used expressed fairly the intention of the parties. Can they, by any construction, be made to cover these militia claims? Georgia did not owe them. This was admitted. The documents show that she did not. Where does she assume to pay them? No promise to pay them is in the instrument. Nothing is contained in the compact which imposes any obligation upon Georgia which did not then exist. These claims were then charges on the General Government. They remain so still.

Were it even admitted that there was an obligation on the state of Georgia to pay these claims in 1794, it is yet necessary to show that these expenses had a "relation to the territory ceded," before they can be considered

included in the cession of 1802. In what does this relation consist? The services were for the defence of the frontiers, and had no more relation to this territory than services performed in New Hampshire or Massachusetts, in defence of their frontiers.

It is a great error to suppose that the magical words, "in consideration of expenses incurred by the State," and on which so much stress is laid, express the real consideration for which the \$1,250,000 was to be paid. The consideration was a territory sufficiently extensive for two European kingdoms. From the sale of the lands, government has received four millions of dollars; more than six million is due, and the remaining lands will yield fifty millions, if sold at the minimum price of public lands. It may be asked, Why were these words introduced into the compact? and what are the expenses to which they refer? The last question has been answered by my colleagues. The first, I shall now answer, and I trust, satisfactorily. When the Commissioners of the United States were called upon by those of Georgia, to stipulate a payment of a large sum, out of the proceeds of the lands ceded, if they did their duty, they demanded of the Georgia Commissioners, on what principle Georgia demanded a payment for lands ceded for the general benefit, when New York, and Massachusetts, and Connecticut, and Virginia, and North Carolina, had ceded territory without any equivalent? To this appeal to the magnanimity of one of the parties, the answer was simple and conclusive. New York and Massachusetts had conflicting claims, and to avoid dispute, ceded the disputed territory. Connecticut gave up her jurisdiction, but retained her right to the soil. Virginia and North Carolina gave up their territory, but saddled it with the payment of a variety of the existing claims, indefinite in extent, and not yet satisfied. Georgia ceding territory, asks only what has been demanded and granted to Virginia and North Carolina. She asks in money, and they received lands. Georgia owes to her State troops two millions of acres of land. This debt is to be discharged out of the Western lands, about which we are treating, by the terms on which the troops enlisted. It is not a Revolutionary claim, but a claim arising prior to the adoption of the Constitution. It is due for defence of the State, and forms a fair and reasonable claim upon the Confederation. It has not been allowed, and we must take care that it shall be paid, especially as we are about to convey away the fund on which it was secured. The nature of this claim has been already explained. A brief recapitulation may not, however, be useless. In 1787, during an Indian war, it was deemed necessary to raise 3,000 men. As an inducement to enlistments, 640 acres of land were offered to each private; and to the officers, a larger quantity—the greatest amount promised being 1200 acres to a Colonel. The Statute of Georgia lies on my table, for the inspection of any gentleman who wishes to know, accurately, its provisions. It is enough for my purpose to state the substance of it. The enlistments were made, and warrants for the bounties were given to the officers and men. According to the promises of the statute, these bounty warrants were to be located in the Western territory. A part of the troops were to be raised in what was then called Franklin, a part of what is now the state of Tennessee. To these recruits a promise was given of 50 acres on every 100 of bounty, in lieu of rations, which Georgia did not propose to furnish them, and this quantity was to be surveyed in the Bend of Tennessee. In demanding payment for these bounty warrants, Georgia followed the example of Virginia and North Carolina. In consenting to pay, the United States did only what was done for those States. The difference between the cases is this: The claims of Virginia and North Carolina were Revolutionary. The claims of Georgia prior to the Constitution, but after the Revolution.

Virginia and North Carolina made the land subject to

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*Georgia Militia Claims.*

[H. of R. &amp; Sen.]

their claims. Georgia asked the amount in money, and paid it over to her citizens and those claiming under them. The Commissioners of Georgia and of the United States acted wisely in making this arrangement, both for the interests of the individuals claiming and for the convenience of the United States, in the subsequent survey and sale of the territory ceded. The ceded territory has been regularly surveyed by the United States. There are no conflicting claims in Alabama and Mississippi. The ground has not been "shingled with warrants," as in Kentucky and Tennessee. The claimants, under the statute of Georgia, have all been paid, while some of those claiming under Virginia and North Carolina, are yet unsatisfied. Whoever will consider the disputes and difficulties which have attended the arrangement of these claims of Virginia and North Carolina, will applaud the conduct of Georgia.

This explanation accounts for the apparent contradiction between Mr. Lincoln and the Georgia Commissioners, and completely reconciles their statements. Mr. Lincoln heard the Commissioners say something about militia claims due by that State, and he has confounded the claims for services in 1787, with the claims for the services rendered in 1792, '3, and '4. This claim of two millions of acres is that referred to in the cession, and not the trifling sum of \$142,000. This latter is a debt incurred, not by Georgia, but by the United States; and is as wholly unconnected with the former, as the militia claims of Massachusetts are. In construing this instrument, then, it is for this House to choose whether they will make its language refer to claims equal in amount to the sum stipulated, and having a direct relation to the land ceded, or to this little militia claim, so far short of the sum stipulated, having no relation to the land ceded, and in which the state never meddled, except through its Governor. I will now shew, in conclusion, that the Military Committee have erred on this subject, and on the same ground as the Secretary erred in 1794. They express great regret that the documents were burnt in the War Office. Sir, it is true that the documents were burnt, but the records of the state of Georgia have been applied to, and from those records the whole correspondence on both sides has been obtained. The committee suppose that those documents, if they had not been burnt, would show why these claims have been rejected. And they suppose, as the Secretary did, that they were rejected because the operations against the Creeks and Cherokees had taken a direction which was offensive to the government. But this was never the fact. It is true, indeed, that expeditions were undertaken against the Indians, in opposition to the will of the government: but these were expeditions, not of the militia, but of volunteers, acting on their own mere motion, in revenge for injuries previously inflicted by the Indians.

It is immaterial whether the Governor of Georgia acted right or acted wrong. He was authorized, by the General Government, to raise those troops: in doing so, he was the agent of the General Government, and the government is bound to pay the soldiers he raised.

Were it, however, necessary, I could show that, instead of doing too much, he did too little. The documents show that the people of the state did not consider the frontiers sufficiently protected. The Legislature passed sundry resolutions, calling upon the General Government for further aid—aid which would have been indispensable, but for the voluntary expeditions undertaken by the citizens of Georgia against the Indians. To show the danger to which the state was exposed, I ask the attention of the House to a single document, a letter from the Spanish Governor of Louisiana to the Spanish Commissioners, Jaudenes and Viar, [Mr. F. read from Waite's State Papers, extracts from the letter, which stated that 600 Cherokees were asking supplies of ammunition to invade Georgia; that partial supplies had been given; that four bodies of Creeks were ready to

invade Georgia, but were restrained by the Governor until it was ascertained what was to be done by Spain and the U. States.] Such was the effect produced by this letter, that the administration of Gen. Washington expected a war with Spain as the ally of the Creeks and Cherokees. The letter of Mr. Jefferson to Mr. Carmichael, communicating this document, shows the apprehension of the government that such was to be the consequence of the disturbances to the South. To the Western gentlemen, a full justification of the conduct of the Governor would be found in the fact that, notwithstanding the force called into service, the incursions of the Indians were so frequent, that the frontier settlements were broken up the whole extent of the Indian boundary. All this is aside from the question. It was immaterial whether the Governor was justified or criminal in employing the force called out. The troops were called out by him as the agent of the United States; the U. States are bound to pay. The U. States have paid the contractor who supplied them all the expenses incident to the service; have paid troops from Tennessee, employed under similar circumstances, and have not been absolved from their liability to the Georgia militia by the compact of 1802.

Mr. HAMILTON rose in reply, but gave way to a motion for adjournment, which was carried.

#### IN SENATE—TUESDAY, FEBRUARY 15.

The Senate resumed, as in committee of the whole, (Mr. KING, of Alabama, in the Chair,) the bill to amend the judicial system of the United States, and to provide for three additional Circuit Courts; the question being on recommitting the bill with instructions.

Mr. JOHNSON, of Kentucky, offered a few further remarks explanatory of the nature of the bill, and called for the Yeas and Nays.

Mr. TAZEVELL, of Virginia, adverted to the importance of the measure, and the impossibility of its receiving the consideration which it merited, and passing through both Houses of Congress the present session. He then moved that the bill and resolution be indefinitely postponed, and pledged himself, should the postponement take place, to co-operate with the honorable mover of the bill, in producing a plan which should ensure the attainment of the object he had in view, by the best means that could be employed.

Mr. TALBOT hoped that the bill would not be postponed, and went into a long argument to show that the Western states, who had been for years asking that the benefits of the Circuit system should be allowed them, should not longer be denied a just and common right. He proceeded to reply at some length to the arguments urged against the bill, when it was last before the Senate, and contended that the present bill was only an attempt to perfect a system which had received the approbation of the country for more than thirty years, a system copied from the English judiciary, which, whatever might be said of the Government, was the pride of the country and the admiration of the world. He glanced at the observations made in relation to the impracticability of the Judges of the Supreme Court performing circuit duties, and maintained that the present facilities for travelling through the country were such that this argument was entitled to no weight.

Mr. BARBOUR, of Virginia, begged the Senate would not be alarmed with the idea that he was going to consume the time by entering into detail in reply to every objection made by the gentleman from Kentucky; not that he thought them unanswerable, but the time would be unreasonably consumed. He should, he said, feel himself reluctantly compelled to vote in favor of the motion made by his colleague, not because he was averse to any change being made in the Courts of the United States, for he had, he thought, been sufficiently



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explicit in declaring his belief of the necessity of some change being effected, but under the conviction that there was not sufficient time remaining: any plan they might adopt must of necessity be carried through in a hasty manner, totally incompatible with the vast importance of the subject—he thought that it was one of the most important that could be presented for their deliberation and would call forth all the talent of both Houses of Congress. His friend (Mr. TALBOT,) suggested that this was the only time that any amelioration could be effected, and if it were now postponed nothing would be done. But, said Mr. B. there was but one sentiment on this subject. It was not the question whether a judge should be located in Kentucky, Tennessee, or Ohio, but what should be the organization of that tribunal, which, they were told, carried the destiny of the nation in its decision. That was the great question to be decided, and when it was considered what important consequences were involved by a wise or unwise decision, it would not excite much surprise that they should approach the subject with some degree of caution, and ask for ample time for deliberation. It was asked, why was not this scheme proposed earlier in the session? He would reply, last Thursday was the time the bill was called up. Was it for them, who were not particularly concerned in bringing forward this measure to call it up, and suggest a scheme by way of amendment? It was sufficient they were at their posts when it was called up, and had then expressed the views they had of the subject. Three propositions were now before the Senate, on this subject, and how could it possibly be properly discussed and receive the sanction of both houses of Congress in so short a space of time as now remained: indeed, it was not at all desirable that a measure of such magnitude should be so pressed on, that mature deliberation could not be exercised on it.

Mr. B. thought that the gentleman from Kentucky had availed himself to the utmost of the privileges of that body, in indulging in a wide range of discussion. If this had been a motion of indefinite postponement on the merit of the question, his objections would have been in order, but when it was distinctly stated that it was merely to gain time for deliberation, he thought the discussion should have been limited to that naked proposition, because the merits of the question were not implicated, his colleague having pledged himself to assist the friends of the measure in obtaining their object the ensuing session.

Mr. B. said he admitted, no scheme could be proposed that was not liable to some objection or other. The gentleman from Kentucky had taken this opportunity to compliment the judicial system of Great Britain. Mr. B. admitted it was a good one, but one that was not calculated to operate beneficially on a large extent of territory. Was it possible, that the twelve judges of England could pass through the whole of the British possessions, in different parts of the world? Were such a proposition to be made, the judges, and all England, would listen with astonishment. Yet he thought one of those judges could visit British Canada in less time, and with more facility, than a judge of the Supreme Court could come from Missouri to Washington. In preparing a scheme of this kind, it was necessary to glance into futurity, and to contemplate the time when territory would be added to territory, till they passed the Rocky Mountains. Were the judges of the Circuit and Supreme Court centered in one person, what could he perform in those distant regions, and then come to Washington to fulfil his important duties there? And yet, because the Western states required an increased number of judges, they were to rush precipitately on this measure, and shut their eyes as to the future consequences. It was urged that the scheme now in force was adopted by the wisest and best of mankind. At that time, Mr. B. said, the population was but three or

four millions, and was limited to the old thirteen states; now, the case was very different, the theatre in which this vast jurisdiction was to be exercised, was those immense regions inhabited by millions of people that will be produced in the course of time. It surely did not follow as a necessary consequence, that because a scheme, adopted under one set of circumstances, proved wise and salutary, it was to continue so when those circumstances had entirely changed. The gentleman admitted that this scheme was now defective, because he was striving to mend it, yet he commended the original scheme. That, Mr. B. said, would be no longer of any service; we were a new people, and a wise legislature, in adopting those measures which promised to be most useful, would pay some regard to those changes which must inevitably ensue in progress of time. He would advert to facts. There were, according to the statement of the gentleman from Kentucky, nine hundred cases on the docket of that state. They had half a million of people; and if they went on progressing as they did now, they would, in fifty years, have 90,000 causes untried. Mr. B. said he would content himself with making his estimate at one-third of that number, 30,000. Allowing that there was an appeal in one case out of fifty, it would leave six hundred causes to be decided annually by the judge.

It was impossible the court could sit more than fifty judicial days, which would leave twelve cases a day to be decided, whereas, if they appealed to experience, they would find that one case in twelve days would approach nearer the truth. The effect of all this would be, that the docket would go on increasing, the fountain of justice would be clogged, and appeals would be made from every part with no other end in view than that of producing delay.

Mr. B. repeated his opinion as regarded the necessary qualifications of a Judge of the Supreme Court. There must be, he said, a mass of intelligence and experience, a character to be acquired which could only be the result of many years laborious exertion, and it was out of the question to tell him that such a man as this could traverse the empire to do all the duty required as Circuit Judge, and then come to this city and act as Supreme Judge. His friend alluded to the beautiful turnpike roads and comfortable steam boats. Those were luxuries which were, no doubt, duly appreciated in the East; but, if he would turn to the West, he would find they were not so easily to be enjoyed, unless, indeed, the gentleman had, in imagination, established the canal across the Alleghanies. Till that event took place, Mr. B. thought, he had been rather too sanguine on the subject. He would advise him to go to the Supreme Court, to cast his eye on the gentlemen occupying the bench, and then say whether they possessed the physical power of making such extensive journeys.

Suppose, said Mr. B. Missouri should present a person, every way qualified, to be a Supreme Judge, (an event, he thought, very probable, from the talent and genius which had emanated from that state,) a person like the present Chief Justice in point of years and wisdom, could he be expected, after having fulfilled all his duties there, to come here every year at the most inclement season, and under circumstances of the greatest difficulty? No! It was utterly impracticable. It was his opinion that the officers of the Supreme Court must be limited to the Metropolis.

Mr. B. said, that an incidental remark he had made had been misunderstood, and the gentleman had made a case of his own, and had discoursed most eloquently upon it. He did not say the Judges were to learn the law from the counsel, but he said that the counsellors on both sides would state the law, in connection, to the Judges of the Supreme Court, and the Judge, with the text and comment before him, would be able to decide.

The gentleman said that these Judges were to make

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themselves acquainted with the laws of the different states by traversing the Union. But, said Mr. B. he surely could not mean to say that they should be itinerants through all the states. He could be only in one or two states, and the time that he would consume in traversing the others would be far better employed in his closet examining the laws of the different states; the consequences would be far more beneficial to the country.

Mr. B. said the principal object he rose for was to notice the allusions the gentleman from Kentucky had made to the decisions of the Supreme Court, the nationality of its character, and the particular bearing of his allusions on the state of Virginia. As far as he was able to understand him, he meant to say, that he (Mr. B.) had defended those decisions of the Supreme Court which had produced excitement at home.

[Mr. TALBOT said he had been misunderstood, and explained.]

Mr. BARBOUR said, when that subject was touched upon before, he had declared he did not conceive it was any part of his duty to be the apologist for the Supreme Court. Nor had he the vanity to suppose, if he were so disposed, that he could represent the grounds on which they made those unpopular decisions, half so strongly as they had done. But every gentleman of the Senate would recollect that when a reference was made on the other side of the House, without any reference to the subject on his part, when the judgment of the Supreme Court was arraigned, he (Mr. B.) observed, that these gentlemen constituted a co-ordinate branch of the government, and there was a courtesy due from one department of the government to the other. If any member or department of government were guilty of an impropriety, it was the duty of every faithful servant of the government to sound the alarm, that the evil might receive a speedy and effectual remedy; but that irritation, which was produced by the insinuations of one department against another, when no effectual measure was contemplated, was incompatible with the genius and spirit of the government. Therefore, it was that he had insinuated, with submission, that courtesy required they should speak of the co-ordinate branches of government with respect. He should not violate his own rule by entering into any discussion on the decisions that had been made, the reasons on both sides were before the people, and let them decide for themselves.

Mr. B. said, there was another objection to which he wished to call the attention of the Senate. It had been said that this court would be too national. It had already exhibited frightful symptoms of nationality; by locating them here that nationality would be increased, and finally, this court would ride triumphant over the desolation of which it will have been the cause. Mr. B. protested warmly against insinuations of this kind against the Supreme Court, and said, if ever the time should come, which God avert, that this branch of the government, in which was deposited the peace and tranquillity of the Union, should commence destroying the rights of states, and prostrating their independence, instead of the little murmur of excitement that was now occasionally heard, they would hear the voice of the whole nation, swelling as it advanced, till it announced that the people had felt this oppression committed on their rights, and were about to take decisive measures. If, after forty years, it is found that the power of this court has not been abused, they might reasonably expect that it would not be hereafter. If they were in reality thus formidable in their power, the gentleman was going to increase it instead of abstracting a portion of it, by increasing their number. For certainly that which a small number would dare to do, a larger number would not shrink from. As new states were added, more judges would be necessary, and the court would be deprived of its character of a small deliberative body.

Mr. B. said he would offer one more remark. It was true, as the gentleman had suggested, that the Supreme Court was the most transcendent judicial tribunal in the world; others dwindled to nothing in comparison with it. In other tribunals, the mere question of *meum et tuum* limited their jurisdiction, but here, in addition, were decided the great questions which presented themselves under the constitution of the United States.—They were the most august tribunal in the world, but notwithstanding they were not so supreme as the gentleman intimated, for there was a yet higher power, to which the Supreme Court must bow, that was, public opinion. It was the people they looked to under all circumstances, and in every vicissitude they had a confidence in the integrity and wisdom of the people.—They were the sheet anchor which secured the safety of the vessel.

The question on which they were to decide was one of vast importance to the tranquillity and well-being of the Union; and what was required of these old men? Why, to traverse the empire with the rapidity and facility of post boys, and then they were to be allowed only fifty days to deliberate on those important questions, whose consequences were so important to the well-being of the country. The plan of the gentleman from Kentucky required bodily vigor—his, required the mental vigor necessary for such judges. They ought to have their own time to deliberate on questions of this sort, and to turn and return the different authorities till their decisions should challenge the admiration of all but the interested party.

Mr. B. said, though he should vote in the affirmative on this proposition, he begged his friend to believe that he would cordially unite with his colleague in the determination to assist him in the plan which would be adopted for their benefit.

Mr. KELLY, of Alabama, thought it would be very unjust, after application had been made from year to year for relief, now to postpone the consideration of this important question to another session, and that too on the supposition that they had not time to think about it. The people of the Western country, he could assure them, had a very different expectation. He could not conceive where was the immense difficulty in the arrangement of either of the two systems proposed for their relief, the extension of the system, or the formation of a separate Supreme Court. If the majority were willing to extend the benefits of a system that were enjoyed by one portion of the Union to another portion, he thought there could be no difficulty in the way. So much time and deliberation certainly were not necessary, and he submitted to the Senate whether a question of this kind, on which so much feeling had been excited in the West, was to be passed off by postponement without consideration. It was incumbent on them in acting to act as much as possible to the satisfaction of all parts of the Union, and if they said they had not time to consider the question this session, what assurance would be given to the people of the West that it should afterwards be considered? It was just as probable that next session opposition would be made, and if they acted on this subject at all they would do it in opposition to some gentlemen who would call for time to consider.

It was, Mr. K. said, no small matter to live under the circumstances in which a large proportion of the Western people do live—a large proportion of the freehold property is still depending in court for trial, and in many instances both parties were already ruined. The District Judges were not men of the highest honor, nor had they the capacity to make a correct decision in an intricate cause, the consequence was, they did not possess the confidence of the people, and ill-will and confusion reigned amongst them.

The present bill proposed the addition of three judges

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to the Supreme Court, and the leading objection seemed to be the increase of numbers. He acknowledged that that objection might possess some weight, but saw no reason why they should not at once proceed to settle it. It was no small matter to let this huge mass of litigation in the Western country go on unattended to and undecided, even to the next session of Congress. If the majority of the House were opposed to the bill, and preferred the formation of a separate Supreme Court—be it so. He only required them to act on the question, that the people might see they had attended to the subject, and their complaints had been listened to with some degree of attention. If it were now postponed, the people would not see the necessity of such a measure, and would come to the mortifying conclusion, that a deaf ear had been turned to their complaints.

Mr K. was prepared to adopt either system, as being infinitely preferable to the present state of things in the part of the country he came from. He urged them to act on either system—the measure had been so long pending, that it must, he said, be familiar to every member of the Senate; and with the legal abilities they had amongst them, there could be no difficulty in making the necessary arrangements. He concluded by observing, that if they could not be satisfied to the extent of their wishes, they would be content to take whatever they could get.

Mr. VAN BUREN, of New York, said, that the question immediately before the Senate, was a motion to postpone indefinitely, made on the single ground of want of time to do justice to so important a subject. The wide range of debate which this question had produced, would be more properly considered when the previous question was disposed of. The motion had been divided—it was, in the first instance, to recommit the bill with specific instructions. The division of the question would not prevent the consideration of the instructions proposed, and to recommit it without instructions, would only cause useless delay. It was a question which of the three systems that had been proposed for affording the relief that was asked, should be adopted. The bill on the table, proposes to retain the present system, and extend it to the new states, by increasing the number of the judges of the Supreme Court. Some were of opinion that that system is not calculated for the time in which we live, and that it is necessary to change it, and substitute one better adapted to the present state of the Union.

Was there any reasonable probability that a bill, having for its object to provide a permanent judicial system for this country, could be prepared and passed in the few remaining days of the session? The season for temporary expedients had passed, and what they did now, must be of a permanent character. The appointment of three new judges would, in the opinion of many, make the Supreme Court too numerous, and by authorizing their appointment, the door would, for a long time to come, be closed against the substitution of any other system.

Mr. V. B. said, for himself, he was prepared to act in regard to the subject; his willingness to postpone, arose from a conviction that there was not sufficient time to do justice to the subject; but if the motion to postpone should not prevail, he hoped the Senate would devote their undivided attention to it, until it was completed. The sense of the Senate would be taken, and if its decision be in favor of postponement, he would cheerfully co-operate with the gentleman from Virginia, in taking the business up at the commencement of the ensuing session, and bestowing the utmost attention upon it. He acknowledged the justice of the claims of the Western states to have a new judicial system established embracing them, or to grant them a fair participation in that which already existed.

Those six states to whom the Circuit system was not yet extended, were not, however, entirely deprived of

such courts. These courts were held by District Judges, on whom Congress had conferred the power, whilst in the other states, they were held by the judges of the Supreme Court themselves. There was a disparity certainly, but those were inconveniences that fell far short of those they would suffer, were they deprived of the circuit system altogether. The evil, though serious, was not so imperative as to preclude the least delay, but call on Congress to act on a subject of such importance, under the circumstances in which we stood. If, however, the Senate thought they had time to carry it thro' with proper deliberation, he was willing to go on with it.

Mr. JOHNSON, of Kentucky, was much gratified to hear the justice of the claims of the Western people acknowledged by the gentleman from New York, (Mr. VAN BUREN.) The question, he said, was neither new or complicated in its character, for it had been before them the greater part of three sessions, therefore, so much time could not now be required to arrange and discuss it. It was the general opinion that something ought to be done for their relief, and it was their duty to sit early and late, till some efficient plan was organized for that purpose. Mr. J. then made a few remarks on the organization of the Supreme Court, the extent of its powers, &c. and concluded by protesting strongly against the bill being postponed.

Mr. EATON, of Tennessee, rose to object to the postponement of the bill. Whether the relief sought for, should be now obtained or not, to many gentlemen of the Senate might appear of little importance; but it was very different to the people of the West, who, for a tedious time past, and up to the present moment, had been urging complaints, and asking redress. It was important to ascertain whether or not any thing could be done for them; if nothing could be done, he at least hoped that Congress would be civil enough to say to them, their claim had been patiently heard and examined, not hastily postponed. He said he felt himself under great obligation to both the gentlemen from Virginia, one of them had declared his entire willingness to take up the matter next year and apply a corrective; the other, (Mr. HARRISON,) was disposed to be equally generous and liberal, provided he should be here. No one could entertain a higher respect for the character and services of the gentleman than he did, or should regret his departure from that body, more than he should, unless his absence should bring with it, some corresponding benefit to himself. Virginia might very well promise her future services and good wishes; had the West been as well taken care of, they too might be willing to wait until the next session. Virginia had nothing to complain of on the subject of the Judiciary; she was amply provided for, by having within her limits two of the Judges of the Supreme Court, both of them men of distinction, and whose decisions carried satisfaction and confidence with them when made. This, he said, was not the case with the West, where but a single Judge had been assigned to perform the business of nine states. Tennessee had, to be sure, heretofore derived some advantage from this system, defective as it was, for, occasionally, not always, she had an associate Justice to settle the disputes of her citizens; but even that had lately vanished, inasmuch as the Circuit Court of Ohio, by an act of the last session of Congress, had been assigned for the very day on which the Circuit Court at Nashville sat. He contended, that one portion of the Union, was as much entitled to the fostering care of the Legislature as another: privileges enjoyed by one section, others had not only a right to ask for, but to demand. The present system, he said, had been made many years ago; it was coeval with the Government, and had been established with a view to the old thirteen states which formed the original compact; it had, by the addition of another Judge, been partially extended to the West;

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but then the West had outgrown this arrangement, both in population and territory, and now demand an increased care of the General Government. He urged them to grant something—any thing; for that any change was better than the present condition of things.

Mr. EATON said he believed he should be found correct in stating, that more than one fourth of the suits at present pending in the Supreme Court, were for the states beyond the Alleghany mountain; of which a large proportion were for the states of Tennessee and Kentucky. This he thought was an important consideration, yet they were told it was time enough yet. Year after year the same language had been been held, wait yet a little longer, and by and by it shall be seen what can be done for you. The gentlemen from Virginia, who were so securely provided for, might well hold such a language as this. Comfortably seated by a warm fire, they might well say to the cold and half starved pilgrim wandering on his way, go hence and trouble us not, and when the morning comes we will inquire what can be done for you; in the mean time he dies! Twice or thrice had a bill extending relief, gone from the Senate to the House, and failed in its progress. Again we attempt it, and are told, Wait yet another year, until we can consider what is right and proper to be done; give us a little more time—another year for deliberation.

The people of the West, he said, were certainly laboring under great grievances in relation to their Judiciary; six or eight hundred suits pending on the dockets of two states only, Tennessee and Kentucky, most conclusively prove, that no where was relief more demanded, or where remedy should be more speedily applied. Another matter, he said, merited consideration; it was, that most of the cases which come up from the West for revision and correction, depended upon local law, and were not to be accurately understood but by those who had grown up with the system, or had been a long time conversant with it; and yet for years past they had been compelled to bring up cases here to the metropolis, apart from that advantage, to be decided by Judges who had little or no information of the law which regulated those decisions. Many suits decided in the Courts below, were under \$2,000, which authorized an appeal, and many which were above this amount were to be submitted to, for the reason that the suitors were not in a situation to encounter the heavy expense incident to a trial here. If, under these circumstances, mistakes and errors were committed, there was no alternative but submission. Of these things the people of the West had complained until they were indeed wearied with complaining; and their grief was the greater, because, while their condition was so wretched, they beheld other portions of the country fully and amply provided for. In his opinion, it did not comport with that strict and impartial justice which should characterize the Congress of the United States, to refuse relief for those crying inconveniences under which the western people had so long labored. Patience and long suffering had been theirs, and still they are told to wait yet a little longer. He concluded, by expressing a hope that the bill would not be postponed.

The question being taken on the indefinite postponement of the bill, it was decided in the negative, by yeas and nays, as follows:

YEAS.—Messrs. Barbour, Barton, Branch, Clayton, Cobb, Edwards, Elliott, Findlay, King, of N. Y. Lowrie, Macon, Mills, Taylor, Tazewell, Van Buren, Van Dyke—16.

NAYS.—Messrs. Bell, Benton, Boulogny, Brown, Chandler, Dickerson, Eaton, Gaillard, Holmes, of Maine, Holmes, of Miss. Jackson, Johnson, of Ken. Johnston, of Lou. Kelly, King, of Alab. Knight, Lanman, Lloyd, of Mass. McLean, Noble, Palmer, Parrott, Ruggles, Seymour, Smith, Talbot, Thomas, Williams—28.

The question then recurring on the motion to re-commit the bill with instructions,  
The Senate adjourned.

## HOUSE OF REPRESENTATIVES—SAME DAY.

Mr. HEMPHILL, from the Committee on Roads and Canals, reported a bill, declaring the assent of Congress to an act of the General Assembly of Virginia, therein mentioned; which was twice read, and ordered to be engrossed and read a third time to-morrow.

Mr. HEMPHILL explained, very briefly, the object of the bill, and moved that it be ordered to be engrossed for a third reading.

Mr. COCKE asked for the reading of the bill. [It was read accordingly.] He then wished to know why the assent of Congress was required at all. *This canal surely did not run through the District of Columbia.* He objected to the bill, as proceeding on the principle that the United States have power to make what improvements they please in the several states—a principle to which he could never consent, as it interfered with the rights of the states, and had never been confided to Congress by the people.

Mr. ARCHER, of Virginia, explained the nature of the bill, and protested against entertaining the opinion respecting the rights of Congress, which was supposed by the gentleman from Tennessee to be involved in the bill. The reason why Congress was called upon to give its consent to this bill was, that the contemplated improvements on the Appomattox river, were on the tide waters, and so might be held to be within the admiralty jurisdiction of the General Government. The bill did not ask the aid of Congress, nor did it settle any question of power, but was merely meant to meet and remove the objections of those who doubted the power of the state of Virginia to interfere with the waters within the admiralty jurisdiction of the General Government. If the jurisdiction of a state did extend (which he was not prepared to deny,) over the tide waters of its rivers, then the act would only be supererogatory, and could do no harm. But the community would never spend its money in improving that stream unless it had some security that the General Government would not afterwards interfere on the ground of jurisdiction.

The bill was then ordered to be engrossed for a third reading to-morrow.

Mr. WRIGHT, of Ohio, offered the following resolution, viz:

*Resolved*, That the Committee on Roads and Canals be instructed to inquire into the expediency of granting to the State of Ohio such sections of land, now owned by the United States, as shall be intersected in the location of the Canals lately authorized to be made in that state; or so much of said sections as remain unsold.

Mr. WRIGHT said, that, in offering this resolution to the consideration of the House, he deemed it proper for him to state, for the information of the House, that the Legislature of Ohio, within a month past, with a unanimity almost unparalleled, and highly creditable, had passed acts providing for the connexion of the waters of Ohio with those of Lake Erie, and the city of Cincinnati with the fertile country back of it, by canal navigation. Provision had been made to raise the necessary funds, and to commence the work during the ensuing season, and to prosecute it with all practicable expedition. The whole extent of the canals authorized, including navigable feeders, was about four hundred miles.

It would be recollected that, in the new States west, the public lands were not vested in the state authorities, but in the General Government; and that these states are inhibited in the legislation, preceding their admission into the Union, from interfering with the primary disposition of the soil. It will be seen, therefore, that,

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in prosecuting these works, difficulties may be encountered at the commencement, insurmountable without Congressional enactment, from the want of authority to enter upon, and construct a Canal through the Lands of the United States. The lands along the contemplated line of the Canals are mostly disposed of; only a few scattered lots or sections remain unsold. They are all surveyed into small lots or sections, of not exceeding one mile square each. In this state of things, my object in submitting the resolution is to obtain authority for the state to enter upon and construct their Canals upon such of the United States' Lands as may be intersected in locating the Canals, and to obtain a grant for the use of the Canals, of the grounds and materials necessary for the Canals, of the unsold parts of the lots or sections over which the Canals may pass.

The resolution was agreed to.

#### UNCLAIMED STOCK DIVIDENDS.

The resolution yesterday offered by Mr. LIVINGSTON, was again read, requiring the names of persons holding unclaimed dividends of U. S. stock.

In support of this resolution, Mr. LIVINGSTON observed that the House had, some time since, on a resolution offered by him, directed the Secretary of the Treasury to make, in substance, the communication now required. That officer had complied with the call, but had presented to the House merely the aggregate amount of dividends unclaimed. There was certainly a strong call upon the justice of the House to obtain a more detailed statement. The report informs us that there is, in the Treasury, the amount of \$226,000 in dividends of this description. Why was this amount suffered to remain there? It must be owing to ignorance or mistake on the part of those entitled to receive it. This question was, whether the United States could honestly avail itself of either the one or the other, to retain the amount? The money does the United States no good. It is nominally, to be sure, in the Treasury, but it is actually in the bank of the United States. The bank has long been trading upon it, and will, no doubt, continue to trade upon it, until the names of the holders of these dividends shall be published. He had heard an objection urged by an officer of the bank, that the amount was made up of small items, the interest of which would, in many cases, be only a few cents a year. He considered this objection as amounting to little. He thought there must be among them some large items, to make up such an amount as was reported. But if it were not so, the officers of the bank were paid for their time and their services; and though the account might be minute and troublesome, the trouble it might occasion was not to be put in competition with the benefit likely to result. The names of all the persons entitled to receive these dividends, even when they amounted only to a few cents, ought to be published. In a course of years these cents would amount to dollars, and might be greatly needed by those who now ignorantly suffered them to lie unclaimed. They might be owned by a person who died abroad, and his heirs be ignorant that he held any stock. They might be owned by insolvents, whose creditors were not apprised of the fact. It had also been objected, that such a publication might lead to frauds; that persons would come forward with false powers of attorney, and receive what did not belong to them. But, Mr. L. said, if this objection was worth any thing, did it not apply with still greater force to the case which now existed? The names of these stockholders were known to some persons now; but they were very few. Among them were the clerks in the bank. These persons were not always discreet, and if they were disposed to avail themselves of the information thus possessed, they had the opportunity of committing frauds without the remotest danger of detection.

The second part of the resolution, Mr. L. said, proposed to call on the Secretary of the Treasury for the names of all those persons who drew the dividends of stock, on standing powers of attorney. This would lead to the detection of frauds, if any existed, in the drawing of dividends upon stock. As matters now stood, the temptation to fraud was certainly very strong.

Mr. STORRS, of New York, opposed the resolution, not because he wished to withhold information from this House, or from the public, but, because he doubted the right of this House to disclose what was a matter of confidence and of private concern. In every moneyed institution, the relative interest of different stockholders was a confidential thing: and they would have reason to complain, if the confidence thus reposed in the institution was violated, unless from some great and pressing necessity. The resolution also calls for the names of all persons holding standing powers of attorney from stockholders. Of what imaginable use could this be, unless it was to gratify curiosity? If any of those powers of attorney were forged, the House had nothing to do with it. Persons offending were amenable to the laws. The measure appeared, therefore, to have no practical utility. As to publishing a list of all the unclaimed dividends, every gentleman must be aware what a scene of speculation and fraud would be produced by such a publication. The evils attending the measure were obvious, and were such as not only to counterbalance, but far to exceed the possible benefits of it. It would be better to leave all these matters to private interest. Many persons might have their private reasons for leaving their dividends there—and, should they never be claimed at all, they were to benefit a valuable institution. At all events, there was no pressing necessity which required the exposure of the private concerns of individuals, as proposed by this resolution.

Mr. LIVINGSTON observed, in reply, that the objections which had been urged against the resolution were such as he had anticipated, and had already endeavored to answer; with the exception of one, and that was one of the most extraordinary objections that he could well conceive. The gentleman tells the House that the names of the holders of this stock are a matter of confidence, and that the holders would complain if that confidence was violated. This was the first time he had ever heard such a sentiment, and he was unable to conceive on what it was founded. A matter of confidence, when a man subscribes openly, and makes the assignment of his stock at a public office! Where is the confidence? But, if not expressed, this confidence was said to be implied. But how implied, and on what principle? What injury is done to the stockholder by publishing his name? The gentleman from New York spoke as if some great evil, too great and too obvious to need being stated, were to follow this disclosure; an evil so great as to counteract all the benefit, if indeed any could result from it. That gentleman asked what the benefit of it could be? I answer, said Mr. L. it will be, that this Government shall not do injustice, and shall not continue to hold what does not belong to it. Is this nothing? Is it nothing that a great nation should disdain to take advantage of the inadvertence of its own citizens? But, it is said that it will open a door to frauds. Suppose that, in a few cases, this should happen. Suppose there should be one case in ten—would the fraud in the one case countervail the benefit of doing justice, and perhaps of relieving want in nine other cases? Mr. L. again insisted on the danger of fraud being greater, now that the names were known only to a few, than if they were published to all the world. He supported the resolution by some further observations with respect to the second part of it, and concluded by insisting that it would neither lead to a breach of confidence, nor to the commission of fraud.

Mr. SHARPE, of New York, spoke in opposition to



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the resolution. He insisted that money, in the situation of that referred to, was like money in bank. The clerks of all banks are sworn to secrecy, and a general confidence pervaded the institution. Moneys deposited, or dividends on stock, were always suffered to lie until the owner called for them. If the institution was ready to pay it, then it was all that justice required.

But the gentleman wished to spread before the world the name in which every unclaimed dividend stood on the books of the bank. The consequence was not hard to be foreseen. It would appear, for instance, that a man named A B owned stock many years ago. It had never been claimed, and the presumption was, that the man was dead. Why, sir, said Mr. S. you would have applications every day of the year. One man will come and say, "My name is A B, the stock must have been owned by my father. Another would come and say, "My name is B. C, this must have been the stock of my grandfather's." It does not stop even here. Your list of names goes to Great Britain, and in a short time you will have powers of attorney in great abundance, imported by every ship that enters your ports! He believed the resolution would lead to little good, and to many and great evils. Mr. S. concluded by moving that it lie on the table; but withdrew the motion to accommodate.

Mr. LIVINGSTON, who rose to explain one fact, which seemed to have been misunderstood. The sums referred to in the resolution are not made use of by the United States. If gentlemen would look at the reports of the Ways and Means for each year, they would find that these sums are never included in the annual estimate of the national resources. They were nominally in the Treasury, but actually in the bank. But if they were in the Treasury, and the United States could make ten thousand times as much by keeping them there, would it be honest to do so? Would it be honorable? He could not conceive with the gentleman from New York, that publicity led to fraud.

Mr. STORRS observed, that, though this stock had been originally in the hands of men of property, yet it had since passed through many hands, and probably not twenty of the original certificates remained in the hands of the subscribers. The question was, whether this House is going to take the guardianship of all manner of persons who hold this stock? Whether it will interfere with this fund in the Treasury, and pay it out before it is called for? Such a course of things, he believed, would not be for the good, but for the injury of the stockholders. Their names are to be published professedly out of kindness to them, but in reality to cause them to be deprived of it. The gentleman from Louisiana had ridiculed the idea of any thing like confidence in matters of stock. But did that gentleman know, that, in other institutions, this is held to be a matter so strictly confidential, that, when one person subscribes his name to a receipt for a dividend, &c., a sheet of paper is laid over the page, that he may not see any other name or any other amount than that which he himself writes. The resolution therefore goes to expose concerns of a private and confidential nature. It is said that the clerks in the bank are acquainted with these amounts. That was true. So was the Secretary of the Treasury acquainted with them, so may many subordinate officers of the Treasury be. But all these are the confidential officers of the Government, and it is not to be presumed that they violate its confidence, whether bound by oath or not.

Mr. STORRS then moved to lay the resolution on the table; and the motion prevailed, by a large majority.

#### GEORGIA MILITIA CLAIMS.

The House then passed to the unfinished business of yesterday, which was the motion of Mr. TATNALI,

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to recommit the report of the Military Committee on the Georgia Militia Claims, with instructions to report a bill for the payment of them.

Mr. HAMILTON said that he would not detain the House long in the very few remarks which he had to make in vindication of the report of the Committee on Military Affairs, in reply to the objections which the gentleman from Georgia had urged in opposition to that report.

He said that, whilst he admitted that no claim before Congress, ought unhesitatingly to be discarded by the circumstance of its having been, time after time, rejected by the committees to which it may have been referred; nevertheless, the fact of reiterated rejection was calculated to produce a well-founded distrust of the justice of a claim so circumstanced, and must produce a disposition, on the part of the House, not to reverse previous decisions, except on the discovery of some new matters of fact, which may have escaped a previous investigation.

As it respects the claims under consideration, they have been before Congress, in various shapes, from 1797 to the present period, and have been uniformly rejected by the committees of this House, with the exception of a favorable report of a select committee, to whose consideration they were once confided. In 1803, the Committee on Claims made an able report, which may be said to have formed the basis on which the Georgia Militia Claims have ever since been rejected, on the ground that their complete payment were consummated under the treaty of cession between the United States and Georgia, executed the 24th of April, 1802. Before, Mr. H. said, he came to consider the stipulation of this treaty, which it is supposed, had relation to these claims, he would remark, which it was important for the House distinctly to understand, that the validity or justice of the claim, independently of this stipulation, had never been fully admitted by the Government of the United States, that the largest portion of them were reported, by the Agent of the War Department as unauthorized; and, with such a designation, they yet stand on the records of the House, and on the files of the War Office. In a word, of the claims which, by the motion of the gentleman from Georgia, the Committee on Military Affairs are instructed to report a bill to provide payment, only \$13,159 63 are called *authorized*, out of \$142,535 29. The remaining sum of \$129,375 66, being for services, which, in the language of the special Agent, employed by the War Department, Colonel Constant Freeman, "were not considered, either by the Executive or himself, as fully authorized."

This discrimination resulted from the following circumstances: In 1792, the frontiers of Georgia were seriously menaced by Indian incursions. The then Secretary of War, Gen. Knox, authorized the Governor of that state "to take such measures, for the defence of the same as might be indispensable," and, very shortly after, communicated to the Governor the views of the President, as to the amount of the militia force which might be necessary for the security of the frontiers of Georgia, in addition to the regular troops which were, at that time, in that quarter, under the command of Major Gaither. The additional force, thus suggested as sufficient, were one hundred horse and one hundred foot. The "case of the serious invasion of Georgia by large bodies of Indians," the Secretary remarked, at the conclusion of his order, "must be left to the provisions of the Constitution of the United States." The authorized claims, amounting to \$13,159 63, may, therefore, be considered as founded on the services of the one hundred horse and one hundred foot, ordered by the Secretary; and the unauthorized claims, amounting to \$129,375 66, are those which grew out of the discretion

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which the Executive of Georgia exercised under the presumed instructions of the Secretary of War, or the provisions of the Constitution.

As the ground assumed by the committee, in their report, is the one so often taken, that these claims have been finally settled under the treaty of cession, Mr. H. said, he would not go into a minute recapitulation, of the correspondence, to shew that the unauthorized claims were always considered as liable to objection, in consequence of a belief, on the part of the General Government, that the Governor of Georgia had not exercised a proper discretion in calling out troops, the levies of which were, at times, unjustifiably large and frequent, and, consequently, entailing unnecessary expense on the United States. If any proof were wanting of this fact, it is to be found in the letter of the 22d February, 1794, in which the Secretary of War informs the Governor of Georgia "that a body of militia had been kept up, on the frontiers of Georgia, during a greater part of the last year, greatly exceeding the number, which, according to the information received at the War Office, would seem to have been required by the state of things in that quarter." This number was represented from 1,000 to 1,200; and, in this communication, the Secretary employs the caution of reverting again to the force which the President considered adequate to the defence of Georgia, which he was willing to consider as raised and continued in the service by his authority, viz: 100 horse and 100 foot.

But this was not the only exception which was probably taken to the claims. The correspondence between the federal and state authorities, as well as the report of Col. Freeman, discloses the fact that, notwithstanding the peremptory instructions of the Government of the United States, that the Indian territory was not to be invaded, that incursions did take place, which induced the Secretary of War, in his letter to Col. Freeman, of the 5th of September, 1793, to order him "not to concur in any measures, at the expense of the United States, for invading the Creeks." And, in relation to the facts in connection with this branch of the subject, Col. Freeman says, in his report on the unauthorized claims made to the War Department, on the 25th of October, 1802, "the periods in which these unauthorized claims are made, are particularly marked in the history of that state, for misunderstandings between the Creeks and the frontier settlers. There were faults on both sides. The Indians were continually stealing horses, murdering, and doing other injuries to the inhabitants, who, in retaliation, made incursions into their country. Such were the Oakmulgee expedition under General Twiggs, in June, 1793, which consisted of about 750 horse and foot; the destruction of the Oakfuskee village, by Col. Meltzer, in September, who had under his command about eighty-eight officers and men; the detachment of 125 men, who marched under the orders of Major Brenton, against the Little Chehaw Village, on Flint River; and several others of less note, which were made by volunteer parties of militia. It has been supposed that these expeditions have operated as objections to admitting the militia claims. Although they might have been irregular, it is certain that some of the detachments who were then in service, afforded great security to the peaceable inhabitants on the frontiers."

If a portion of these unauthorized claims comprised expeditions involved in these excursions into the enemy's territory, contrary to the express orders of the President, it may well be supposed, said Mr. H. that very serious difficulty would have been made by the Government as to their admission. But these circumstances form not the only objections which were entertained as to the validity of the claims in question. Both from Col. Freeman's report, and the correspondence between the Governor and Col. Gaither, who commanded the federal troops, it appears that the militia were sometimes em-

bodied without that attention to the forms of service which were required, which led to some unpleasant conflicts of authority between Col. Gaither and the state functionaries. It is evident, from the letters of this officer, that he did not conceive that any serious invasion of the Indians was threatened, but merely predatory incursions, and, in November, 1792, he thinks even a less force than that designated by the Secretary of War, would be sufficient for the protection of the frontiers; that is two troops of cavalry, instead of 100 horse and 100 foot. That the militia of Georgia were assembled with irregularity, is highly probable, from another fact which appears in the correspondence between Col. Freeman and Major Gaither, in their respective letters of the 17th and 19th October, 1793. The former makes an application to the latter "to appoint some fit and proper person to muster and inspect the militia," to which Major Gaither replies: "Yours of the 17th inst. I have received, and declare to you, if there are any militia in arms under the authority of the United States, in Georgia, I am ignorant thereof. When I received your instructions from the Secretary of War, I wrote immediately for information, which I daily expect to receive, and for that reason wish to postpone the mustering the militia of Georgia, until I am properly informed. As there are difficulties which may arise in this business, it is highly necessary it should be delayed."

Mr. H. said that he had thus, as compendiously as possible, endeavored to shew, that these unauthorized claims had probably been suspended for other reasons than any disposition on the part of the General Government to do Georgia injustice. He then remarked, that it was much to be lamented the conflagration of the War Office had probably destroyed many documents illustrating the views and objections of the government on this subject, from the earliest period at which their payment had been pressed. But, as he had before remarked, if the House came to the same conclusion with the committee, that these claims, "authorized," as well as "unauthorized," were provided for and paid under the treaty of cession of 1802, it was not very material to inquire whether the inferences which he had deduced were sound or not.

Mr. H. said he would now trouble the House with a few remarks in regard to the treaty of cession between the United States and Georgia, for the purpose of giving a brief exposition of the reasons which induced the Committee on Military Affairs to arrive unanimously at the same conclusion with all standing committees of this House, who had ever had the claims under consideration—that they had been fully cancelled under the stipulations of that agreement. But he would, before he discussed this point, admit, (for he was bound in candor to make the admission) that he believed, but for the treaty of cession of 1802, and the consideration for which that amount was paid under that treaty, there could be no substantial objection to the allowance of the claims in question, as he had no doubt the services had been bona fide and patriotically rendered; and, although irregularities may have been committed in relation to hasty and disproportionately large levies of troops, yet these are unavoidably incident to the employment of militia; and the occasionally offensive operations of the citizens of Georgia were inseparable from the exigencies of a savage war carried on on their own frontier. If, however, the debt has been paid by the treaty, the discussion is at an end.

This treaty was concluded in April 1802, and provides that the Government of the United States should pay to the state of Georgia, out of the nett proceeds of the sales of lands, the sum of one million two hundred and fifty thousand dollars, "as a consideration for the expenses incurred by said state, in relation to said territory." When this subject was referred to the Committee of Claims in 1803, this Committee very properly di-

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rected a letter to the then Attorney General, (Mr. Lincoln,) who had been a Commissioner on the part of the U. States in the negotiation and conclusion of this Treaty. His reply to this call, which has been read, I will not trouble the House with at length, but there is one passage in it which I wish to press upon their consideration with some emphasis. He says, "It is perfectly recollected in the course of the negotiation with the Commissioners on the part of Georgia, at one or more interviews with them, they stated, as a reason why an allowance to a certain amount ought to be made them out of the proceeds of the ceded Territory, that their state then had a debt, which had been incurred for military services in defence of the state, which the United States, on application, had unreasonably refused to allow them." Now, as the identical claims were at that time the only claims of a military, as well as pecuniary character that Georgia had presented, or that the United States could be supposed to have unreasonably refused to allow, it is a fair matter of inference, that the Commissioners on the part of the United States were induced to make the large allowance in money, in consequence of their regarding these claims as actually and justly pressed on their consideration. Besides, it would be a most extraordinary presumption to suppose, that, at a moment when they were about to negotiate a Treaty, that the only serious matters in dispute between the two sovereigns should have been omitted, and when the services on which the claims in question are grounded, were expenses as well "in relation to said Territory" as to the State at large. The truth is, that it was somewhat unprecedented, as had been admitted by the gentleman from Georgia, (Mr. Forsyth) that the United States should pay any pecuniary bonus to a State for her cession of Territory; and, Mr. H. said, he suspected it was the object of the Commissioners to bring all the claims which Georgia might have on the General Government, under the cover of these "expenses in relation to said Territory," in order that Congress might be reconciled, apparently, to so large an appropriation.

It is true, that a gentleman of Georgia, (Mr. Thompson,) who, some days since, addressed the House, exhibited a tabular statement of the appropriations of land, which the state of Georgia had made to certain troops she had raised from '83 to '87, before the formation of the Constitution of the United States; but even these were not exclusively expenses applicable to the Territory in question, and none of them expenses for which the United States could be considered as bound for reimbursement, under any circumstances. This statement, which the gentleman had exhibited in the form of a sum, he had made to exceed a million four hundred thousand dollars, but on assumptions which he, Mr. H. thought entirely gratuitous. In the first place, he had assumed the quantity of land appropriated by the Legislature of Georgia as the quantity actually given, and next he had placed the valuation of the land (at that time situated in almost a savage wilderness,) at fifty cents per acre. This, Mr. H. said he conceived, was an high valuation; some recent purchases had been made by the United States on an average of less than seven cents per acre, of land not now more remote from the settlements of our citizens, than those lands in question were at that time. He believed if we even gave Georgia credit for all these expenses, on a calculation founded on what she actually expended, enough would still be left, as a balance of the million two hundred and fifty thousand dollars, to cover and provide for the claims under consideration.

Mr. HAMILTON said, it was far from his intention to impeach the testimony of the Commissioners from Georgia, (to their memories he was as willing to pay a tribute of respect as any one) who had declared that, according to their understanding, these claims were not included. But it will be recollected, that their testimony was given

some time after that of Mr. Lincoln's, who, on the other hand, declares that, according to his best recollection, and every rational probability, they were included.—Now it might so happen, that, whilst the United States' Commissioners believed that they were providing for these, and all other claims which could, in anywise be considered as expenses "in relation to said Territory," the Georgia Commissioners might have entertained a different impression; yet, as our Commissioners did so treat, and were induced to stipulate for so large a sum to be paid, it would seem that we ought not, on light grounds, to impugn the testimony of our own agent, whose very caution and reserve prove the great circumspection with which he had been disposed to give his evidence. Mr. HAMILTON said, that the Committee on Military Affairs had not been content with the documentary testimony on the files of the House, but had applied to Mr. Gallatin, who had been a United States' Commissioner with Mr. Lincoln. But, unfortunately, the lapse of time (20 years) had effaced from the memory of that gentleman all recollection of the circumstances attending the negotiation; and Mr. HAMILTON said, that, on making a personal application at the Department of State, with a view of ascertaining whether there were on record any letters "comprising a protocol or schedule of the nature of the expenses," &c. in question, he had been entirely unsuccessful. The Committee on Military Affairs had, therefore, been constrained to take Mr. Lincoln's letter as furnishing a cotemporary construction of the treaty, and as the best evidence within their reach.

But the gentlemen from Georgia contend that these are not claims of the state of Georgia, but of her citizens, who have never surrendered the liability of the United States to them. On this subject, Mr. H. said, that he thought the principle was clear, that, if the United States had suspended their payment on the ground that the Governor of the state of Georgia had exceeded the instructions and discretion given to him, as to the manner in which the Indian wars of '92, '93 and '94, were to be conducted, the Federal Government might fairly regard her as chargeable with the expenses of these wars, and yet be disposed to pay them "as expenses in relation to the ceded Territory," and as a part consideration for the acquisition. It does not follow, because a state exceeds its authority in the employment of troops, for which the General Government will not pay, that the state is, itself discharged from all obligation to its citizens who are thus employed. She may well be presumed to incur, in such an event, an ulterior responsibility.

The gentleman from Georgia, (Mr. Forsyth,) has said that the Treaty Cession has been immensely profitable to the United States. It ought to be recollected that this account is not yet closed. The United States have taken the cession with an onerous stipulation "to extinguish the Indian title within her territory." This had already been partly accomplished, at a considerable cost, and a large territory, much larger than one state in our confederacy, remains to be extinguished, of great fertility, where civilization is progressing among the Indians, and with it, as its inseparable incidents, producing a higher attachment to property, by a multiplication of its objects, as the sphere of rational enjoyment becomes enlarged. When this section of country, comprehending one of the most fertile portions of Georgia, is purchased from the Indians, in conformity with the treaty-stipulation, it will be ample time to state the account of profit and loss. He trusted, however onerous the burden might be, that the Government of the United States would be able to fulfil, on terms satisfactory to Georgia, its stipulations on this subject.

It has also been urged, said Mr. H. that the United States impliedly acknowledged the war as her own, by paying, in the course of its progress, the expenses of the Commissariat and Quartermaster's Department. These expenses, Mr. H. said, were undoubtedly paid by the

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United States, and it appears from the documents on your table, that at least ninety thousand dollars were actually disbursed, in a short time, by the agent of the United States, for these purposes. This fact furnishes abundant proof of the public spirit and good faith with which the government of the United States, at that time, acted towards Georgia, but, as these payments were all prior to the treaty of cession, in 1802, they do not touch the position that the balance of the claim was adjusted under that treaty.

Mr. HAMILTON, after noticing, briefly, some observations which had been made in opposition to the report of the committee, concluded by remarking, that, if the House should come to the conclusion that the committee had erred in confirming the construction which Mr. Lincoln, and the several committees of that House, for a period of upwards of twenty years, had put on the treaty of 1802, he should only say, that, for one, (and he was certain that he spoke the sentiments of the whole committee,) he would be exceedingly gratified to receive its instructions to report a bill to provide for the payment of the surviving soldiers of the war to which the claims have reference, or to their legal representatives. All pride of opinion, in this event, would be lost in the conviction that the committee must have erred, and unintentionally have done injustice. But, until corrected by a contrary decision of the House, they were constrained to believe that the claims under discussion had been paid in the manner for which he had contended.

Mr. FORSYTH, of Georgia, in reply to Mr. HAMILTON, said, the gentleman who had just taken his seat had committed several mistakes as to the facts of the case before the House, which it would be best to correct while the remembrance of his argument was fresh in the minds of the members. He stated that there had been no favorable decision from a standing committee; that all the favorable reports were from select committees. A bill was reported at the last Congress by a standing committee of the Senate. The bill passed the Senate, but was not acted upon finally here. [Mr. HAMILTON explained, that his remark was confined to committees of the House of Representatives.] Mr. F. was not prepared to dispute the fact, that unfavorable reports had been made by standing committees and favorable by select committees. He did not perceive that this ought to prejudice the claimants. Reports were not considered as authority: their value depended upon the matter contained in them, and they were confirmed or rejected according to the judgment of the House, after careful examination of their contents. The two reports against the claim, were, 1st, that of the Committee of Claims of 1803; 2d, that of the Military Committee of the last session. Both committees occupy the same ground, that the claims were due by Georgia in 1794, and that the responsibility of the United States was removed by the compact of 1802. Both committees, in my judgment, erred, from the want of due consideration of the documents. The gentleman from South Carolina has satisfied me by his argument of to-day, that the Military Committee have in this case relied too much upon the previous reports, and have therefore failed to examine accurately the original papers. He says, with regret, that two letters of the Governor of Georgia are not to be had. This is a mistake. Both those letters are in a pamphlet now in my hand, printed at the present session of Congress. He states, also, that this business originated in an application from the Governor of Georgia for aid from the General Government in 1792. This was not so.—The origin of this claim is a letter from the Secretary of War to the Governor, warning him of impending danger, and urging him to take preparatory measures. The letter to which the gentleman alludes, is the answer to the Secretary of War. The measures preparatory to meet the danger, were taken, and notice given to the War Department. A discretionary power was then giv-

en. Troops were called out; a dispute arose about the number called out; an explanation was given, and the General Government was satisfied. The concluding part of the letter of the Secretary of War expresses a hope that the large force will be dismissed when the danger is passed, *provided* the safety of the frontier will admit of it. The Governor at this time received also authority to call out the militia of South Carolina, if necessary, through the Governor of that State, who was officially informed, from the Department of War, that the expense incurred would be paid by the General Government. The Military Committee, with the Committee of Claims of 1803, both consider the Governor of Georgia as defending the state, under the constitution and laws of the United States, in his character of Governor. He acted as the special agent of the War Department under a written authority. He addressed himself as such to the Department. He gave notice as such of his movements. The United States knew the number of troops; never objected to the number until there was an apprehension that they were to be used for invading the Indian territory. This the Department wished to prevent, lest we should be involved in a war with Spain.

The Governor had contemplated an invasion, and was making preparations for it. It was prevented by orders from the War Department. But, sir, if the Governor had invaded the Indian territory, and desolated the whole region to the banks of the Mississippi, this act could not have impaired the right of the militia to their daily pay. I pray the recollection of the House of the letter of the Governor of Georgia, written on the application of the War Department, in 1794, after the Indian war had ended. This letter has also escaped the notice of the Military Committee. The Governor says the militia were used only defensively, or in pursuit of invading Indians; that their services were indispensable to the safety of the frontier.

All difficulty is solved by the compact of 1802. This cuts the Gordian knot for all the committees, and releases the United States from all liability. What are the arguments in support of this opinion, now offered by the gentleman, or heretofore used by others?

The gentleman applies to this contract for a sale of territory between Georgia and the United States, the rule of international law that, when nations have a treaty for the settlement of pecuniary claims, all those existing previously to the contract, are taken to be embraced by it. Without inquiry into the correctness of the rule, which might be disputed with safety, I have to say that this compact was not for the settlement of pecuniary claims. The United States wanted to have a cession of territory, and Georgia was willing to make it. All that the state desired was, that the territory, itself, should pay all the debts due by Georgia, and for which that territory had been pledged by that state.

But, the gentleman insists that these militia services were the consideration for which the one million and a quarter was paid. Sir, this is a mockery of Georgia.—You pay her a sum of money out of the proceeds of the property she gave you, and then gravely say this settles all disputes. You must pay all our obligations to your militia. I have already endeavored to show that the words in the compact were introduced to show the motive which justified Georgia in demanding any payment for the lands ceded for the general benefit. The state troop bounties, the gentleman says, cannot be referred to, because the United States were not answerable for those debts. But, was not Georgia answerable; had she not bound herself to pay them out of this fund. If this were the case, could the Commissioners of the United States refuse to provide the means of paying them out of the fund?

The United States were, however, answerable on every principle of equity. Georgia was a member of the confederation. That confederation was bound to

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pay for the common defence, and these expenses were incurred for the common defence. But, sir, the gentleman urges not upon the compact, but on Mr. Lincoln's vague recollections of the conversations of the commissioners who framed that compact. Look to the instrument, and there is no difficulty. The example of Virginia and North Carolina was followed, to the benefit of the Georgia claimants, and to that of the states formed out of the ceded territory. I will not repeat what has been already urged on this point.

The gentleman says, suppose the United States' Commissioners thought the present claim ought to have been included, then it would have been included, to absolve the United States; and, from this supposition, he concludes that it was included. Now, sir, it appears that the United States' Commissioners knew nothing about the claims intended to be included, but what was told to them by the Georgia Commissioners. The Georgia Commissioners, say, positively, the claims now under discussion, were not included, or intended to be included, in the words of the compact. But admitting that the United States' Commissioners had knowledge of these claims, and wished to include them. Georgia was a party to the compact. What possible motive existed to induce her to have them included? Georgia had no motive to intermeddle with the payment of the debts of the United States; her anxiety was to pay her own debts, and the stipulation applies to no other. It is confined within still narrower limits. The stipulation is for the payment of "those expenses incurred by Georgia which had relation to the territory" ceded.

Will the gentleman establish the relationship of the present claims with the territory ceded, or is he willing to rest upon the reasoning of Mr. Lincoln? He reasons thus: The militia services of 1792, '3, and '4, were for the defence of Georgia. The ceded territory was part of Georgia in those years. The defence of the whole is the defence of all the parts, and therefore these services were the defence of the ceded territory, and thus had relation to it. This mode of argument will prove that the expense had relation to Vermont. It was incurred for the defence of Georgia, Georgia is a part of the United States; it was, therefore, for the defence of the United States; Vermont is a part of the United States; ergo, the expense incurred had relation to Vermont. What is amusing in this argument, is, that it proves Georgia was defending a territory which the militia were forbidden to invade lest they might offend the Indians. I defy any man to confine himself to the compact, and show any reasonable ground of doubt on this subject. It is merely by connecting the compact with Mr. Lincoln's imperfect recollections, that a doubt can be raised. What weight should be given to his declarations, I have already shown. One circumstance occurs to me, that has not been mentioned. Six months after the compact of 1802, the members of the administration were perfectly ignorant that a settlement of these claims of the Georgia militia could be considered as effected by that compact. General Dearborn, in February, 1803, reported favorably on these claims, and recommended their payment. The gentleman from South Carolina has told the House that Mr. Gallatin knew nothing about it. Mr. Madison was not better informed. Can the House presume, under these circumstances, that Mr. Lincoln was alone accurate in his remembrance? Sir, it cannot, for Mr. L. himself speaks with becoming timidity of his remembrance, and in all that is material to the investigation, differs with the Georgia Commissioners.

That the parties never intended to include these claims is certain; that they are not included by the force of the terms used, is to me, irresistibly clear.

The gentleman from South Carolina admits, that the 13,000 dollars still due, was a fair claim against the United States in 1794, and that the failure to pay in that year was accidental. Why has this sum not been

paid? Why do the committee neglect to pay it now? Georgia has not assumed this; there never was a dispute about it. Shall I state the cause to the House—the same cause which has kept the Hall empty since this subject was discussed? Apathy and indifference prevents a thorough examination. There are no strong feelings of interest excited by an antiquated claim. The subject has been frequently before Congress, and no provision has been made for it. How many members of this House, are, at this moment, aware that a whole troop has not been paid its just dues, because a Major in the regular army refused to authenticate its pay rolls in 1794? I venture to say not twenty. How powerful is the effect of time, and an adverse report, I myself know. When I first had the honor to take a seat in Congress, I examined this claim as interesting to a portion of my constituents. The report made upon it by Mr. Secretary M'Henry, was the first and only document I read, and it induced me to throw down the papers, with a strong conviction that the claimants could not expect redress. Subsequent circumstances occasioned me to examine the original papers, and I saw with surprise, that the facts of the case were distorted by Mr. M'Henry's statement. The report of General Dearborn, then seen, for the first time, confirmed the opinion, that a fairer claim had never been presented to the justice of Congress.

In conclusion, Mr. Speaker, I would remark, that this claim is presented on the ground that the Governor of Georgia was acting, not as the Executive of the state, but as the agent of the United States. Considering him as fulfilling his duties under the Constitution, according to the rules established during the late war, the United States are bound to pay the amount. By the rule established, as we are told by the Military Committee, militia in service, in case of invasion, or imminent danger thereof, during the late war, whether called out by the Governor of a state or not; whether called out by an officer of the General Government or not; were paid as a matter of course out of the public Treasury by the Department of War.

What is to deprive the militia of Georgia of the benefit of this rule? Is there any difference between a British and an Indian war, in the rules for the settlement of accounts? Is the spontaneous gathering of the militia in time of danger in 1813 and 14, to charge the public Treasury directly, when the call of a Governor, acting under an authority vested by the General Government, is deemed insufficient, in 1792, 3, and 4, to fix any thing but a remote responsibility upon that General Government? But Mr. Speaker, I have done; it remains for the House to decide the proposition before it. I should have the strongest confidence that a favorable decision would be made, if I was satisfied that the members had attentively read the documentary evidence printed by their order.

Mr. M'COY observed, that much of the debate on this question might have been spared. We had not now to discuss the merits of the claim, but whether it had been paid or not. It was easy now, after the lapse of thirty years, when the persons and circumstances at first concerned, were nearly forgotten, to draw constructions either for or against the claim. For his own part, he should have no objection to pay, if he were not fully satisfied that this demand had been paid already. There was a report from the Committee of Claims, in the year 1803, one year after the treaty of cession, in which the committee say that a question had arisen at the previous session of Congress, whether or not this claim was embraced in that treaty. How did the House get this notion in 1802? The Attorney General furnishes the clue to this question. The subject, it seems, had been talked of between the commissioners, and his understanding, from that conversation, was, that these claims were included. This officer, it will be observed, was called



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upon while his recollection of the transaction was still fresh, and he does declare, unequivocally, that the joint commissioners insisted that they had a claim for an amount which the United States unreasonably withheld. If they had such a claim while the treaty was in agitation, what was more reasonable, or what could be more natural, than to conclude that this claim would, of course, be embraced in the treaty? In the act of cession, on the part of Virginia, there is a clause similar to that in the treaty with Georgia, except that lands are stipulated instead of money. The expenses in relation to the lands now included in the state of Tennessee, and which were then stipulated for, were expenses of a military kind. The gentleman from Georgia is certainly mistaken in supposing that the General Government held itself bound for the expenses of these Georgia militia. On the contrary, they objected to the payment, and disputed the claim, because the operations on the Georgia frontier were of an offensive character. The Government did not pay the \$13,000 referred to, because provision was made for it in the treaty.

The question was then taken on Mr. TATTNALL'S motion for recommitment, and decided in the negative, and

The report of the Committee on Military Affairs, adverse to the present claim, was agreed to.

IN SENATE—WEDNESDAY, FEBRUARY 16, 1825.

The Senate again took up, in committee of the whole, the bill to amend the Judicial System of the United States, and for the appointment of three additional Circuit Judges, (in the Western States,) the question pending being on the recommitment of the bill to the Judiciary Committee.

Mr. HAYNE said he should vote for the recommitment, not because he was opposed to the system being extended to the Western states, but because it was useless to enter into a full discussion of the Judicial System during the short remaining period of the present session; it was impossible that the propositions submitted by the gentlemen from Virginia and Kentucky, could at present receive the attention they demanded. Had this subject been brought forward early in the session, they might have been prepared to act on it, but from some cause or other, it had been delayed, and now it was too late. A separate Court of Appeal had been proposed, and that question, if it received the discussion which it merits, would alone occupy the attention of the House for the whole week. He was perfectly willing to afford the relief asked for, but thought it would be lost time to discuss it at present.

Mr. TALBOT said that the question to recommit the bill was a mere repetition of that decided yesterday; and as it had been then decided in their favor by such a large majority, he had no fears of failing now. He could assure the Senate, that the bill had been drawn up with the greatest care and attention, and had been examined and approved by the members of the Supreme Court. The details were made perfect, as far as they could be, by those deeply interested in its success, and he thought its wanting shape or maturity could not be urged as an objection to it. It was, he said, merely an extension of the old system, and after having already suffered so long and so deeply for want of it, they surely did not intend that they should still suffer, even were it only till the next session, without relief being afforded.

Mr. VAN BUREN offered a few remarks; he expressed his unwillingness to go into the discussion at so late a period of the session, but he did not see how it could be avoided. He therefore felt himself under some sense of obligation and duty to proceed to the examination and discussion of the subject, unless the motion to recommit should to-day be successful.

Mr. BARBOUR took it for granted, from the vote yesterday, on the motion to postpone, that there was a de-

sire on the part of the Senate to proceed in this business; but that was a distinct and very different question from the one now under consideration. Yielding, as he did, to the decision of yesterday, he should vote for the recommitment of the bill, because he wished to test the principle of separating the duties of the Supreme Court from those of the Circuit Court. The bill was not about to be sent to a committee of oblivion; but they wished to introduce into the organization of the judicial establishment a salutary, if not an indispensable principle. He therefore hoped the bill would be recommitment, that they might give it a form satisfactory to the Senate.

Mr. HOLMES, of Maine, said, if the bill were recommitment, they would have to adopt an entire new system, and they surely were not prepared to do that in the present session. One party were in favor of a new system, whilst another wished to consign the present bill to oblivion; and as there was not time to adopt a new system, the question was, would they amend the old one to relieve the Western country from the distress under which it labored. The old system had been established in the year 1789; and an attempt was made to alter it, something similar to the mode proposed by the gentleman from Virginia, but it was unsuccessful, for this alteration lasted but a few months. They were not, he thought, prepared to go into a measure of that kind at present, and he should like to know what were the evils which would arise from an extension of that system which had been tried so long, and had been found sufficient. All they were asked to do for the people of the West, was to extend or amend the present system, so that it should operate for their benefit. The evil was found to be great in that country, and it was incumbent on them to remedy it, more especially when the remedy was so easy. There was not, he thought, any danger in extending the present system, but they saw some risk in adopting a new one.

Mr. MILLS, of Massachusetts, said, from the arguments used by some gentlemen on this subject, it might be taken for granted that the Western people only were interested in the question; this was not the case. Every part of the Union was equally interested in it, because the moment any alteration took place, whether by enlarging the number of Judges that at present composed the Supreme Court, or by forming two distinct courts, every state in the Union, and every individual who would be affected by the decisions of the court, would be as much interested as the people of the West could be. He thought some alteration should be made in the present system, and was convinced of the necessity and importance of adopting one that should act equally on all the states in the Union, and afford to all equal advantages; but he was not prepared to say that the one now before them was superior to all others. He hoped the bill would be recommitment, for then the three propositions that had been submitted, would be laid before the committee, who would duly consider them, and if there were time they would act on them during the present session; if not, the subject must necessarily be deferred till the ensuing session.

Mr. JOHNSON, of Kentucky, said he was struck with the remark that had been made, that they only asked for an extension of the present system—he was willing to rest on that ground. The gentleman who had moved to recommit, had done so to endeavor to separate the Supreme Court from the Circuit system. The sense of the Senate on the subject would now therefore be ascertained. If the vote were in favor of the recommitment, it would be certain they were willing to change the system altogether; if not, they would be willing to extend the present system, and a bill for that purpose was already prepared, and was now before them.

Mr. EDWARDS, of Connecticut, said, he wished to hear the merits of the system discussed before giving his vote, and it was for that reason that he had voted for the

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postponement. There certainly was not time during the present session, to examine and do justice to the proposition. He thought it should be deferred till the next session, and wished that every gentleman who had framed any plan, would then bring it forward, so as to have the subject thoroughly discussed. He should vote for the recommitment of the bill, but in so doing, he should not consider himself pledged to support the system which had been suggested by the gentleman from Virginia, nor did he wish to be understood as being opposed to the extension of the one now existing. He was influenced by no other motive in giving his vote, than the conviction that there was not time now to act on so important a subject.

The question was then taken on the motion to recommit the bill, and decided by yeas and nays, as follows:

**YEAS.**—Messrs. Barbour, Barton, Benton, Boulogny, Branch, Clayton, Cobb, D'Wolf, Edwards, Elliott, Findlay, Hayne, King, of N. Y. Knight, Lowrie, McIlvaine, Mills, Parrott, Taylor, Tazewell, Van Buren, Van Dyke, Williams.—23.

**NAYS.**—Messrs. Bell, Brown, Chandler, Dickerson, Eaton, Gaillard, Holmes, of Me. Holmes, of Miss. Jackson, Johnson of Ken., Kelly, King, of Alab., Lanman, Lloyd, of Mass. McLean, Macon, Noble, Palmer, Rugles, Seymour, Smith, Talbot, Thomas.—23.

The Senate being equally divided on the question, the motion to recommit was lost, and the consideration of the bill proceeded.

**MR. TALBOT** moved to add a section to the bill fixing, hereafter, the commencement of the annual term of the Supreme Court on the second Monday in January, and requiring its continuance each term, until it shall have disposed of all the business before it.

This amendment was rejected, without debate, by the casting vote of the chair—18 members rising for it, and 18 against it.

**MR. TAZEWELL**, then, for the purpose, he said, of trying the sense of the Senate on the most important feature of the bill, moved so to amend it as to provide that the three additional circuit judges shall *not* be justices of the Supreme Court.

**MR. JOHNSON**, of Kentucky, said, that the effect of this amendment would be to degrade the Western States. There was a clause in the constitution, that States, on coming into the Union, should receive equal rights and privileges. He had said, on a former occasion, that it was not to be expected that these States were, in their infancy, to receive, at once, all the benefits of the system, but now, after so much time had passed, and their claims was so generally acknowledged, they were fully entitled to be placed on an equality with the other States; and what was it that was now offered to them? They would allow them circuit judges, but they were not to occupy a seat on the Supreme Bench of the Union. Against this he protested. **MR. J.** made a few more remarks in opposition to this motion; when

**MR. TAZEWELL** offered, succinctly, his reasons for submitting his amendment, and to shew the unreasonableness and impropriety of different parts of the country claiming an exact portion of Judges on the bench of the Supreme Court, and the absurdity of resorting to the principle of judicial representation to procure impartial justice, &c.

**MR. JOHNSON**, of Kentucky, said he wished to say a few words in answer to the gentleman from Virginia, and first, as to judicial representation. He supposed that it was the duty of every individual to put the precise construction on the words in debate, which the individual using those words intended to communicate. It, therefore, from the defectiveness of his language, the gentleman had extended his meaning of the words judicial representation, he hoped he should receive the pardon of that honorable body, in giving a short explanation of his meaning. It might be the same thing to the

honorable gentleman whether the man who was to decide on the rights of his constituents came from one of the distant states, or any corner of this Union. **MR. J.** said he wanted Kentucky to decide for Kentucky.—They wanted the measure of justice extended to them that had been extended to the old states for forty years, and yet their doctrine was said to be heretical. He had said before, and he repeated it, they had a right to a judicial representation on the bench of the Supreme Court, in the sense in which he took it. He meant only the extension of the system to all the States—of that system which secured to Virginia two Supreme Judges, and he did not speak of it in any other point of view.

**M. J.** wished to do away with the trouble and confusion that had arisen in this country from the words, impairing the obligation of contract, but he did not deny the solemnity of the principle the words contained. He only spoke of the confusion that had been introduced into the judiciary of the whole Union by those words. He thought the gentleman could not tell him what was the construction put on those words by the Supreme Court of the Union. It had been decided many times, in different ways, in the State he (**MR. J.**) represented. He complained of the words because they allowed of a latitude that involved state rights and state sovereignty, of which Virginia had complained as loud as any. He did say, and he repeated it, those words were introduced into the constitution without intending to give them any importance, yet more confusion had grown out of them than from any words in the constitution for many years past.

If the doctrine were true, that responsibility diminished in an inverse ratio as numbers increased, then the body to whom he now addressed himself might as well consist of twenty-four as of forty-eight members. The House of Representatives would be better with half its present number. The same principle would apply—and the Supreme Court had better consist of one member than seven.

He thought that equal justice would never be extended to them, without they were fairly represented, each judge having a district allotted to him, in which he could reasonably move. They did not wish for inferior judges, who were, in a manner, disfranchised, to be sent amongst them; that was not the remedy they wanted. What they asked for was a remedy which should strike at the root of the evil; and he did think they would be degraded if they received judges who were disfranchised from sitting on the Supreme Bench.

He should, he said, be unwilling to trust the decision of those great constitutional questions, which might humble the state sovereignties to the dust, to any tribunal on earth that was not direct from the people, and for the decisions of such questions they ought to have a majority of six instead of three, by increasing the number of judges. He trusted, therefore, that the amendment of the gentleman from Virginia would not prevail.

**MR. TALBOT**, of Ken. rose and said, that the immense importance of the proposition which was the subject of this discussion, not only to that section of the Union, for whose immediate and more peculiar benefit it is calculated and intended to operate, but to every portion of this widely extended Union, must be his apology for attempting some opposition to the motion of the honorable gentleman from Virginia, who, in addition to the proposition of his honorable colleague (**MR. BARBOUR**), has favored us with his new *projet* as a substitute for the bill upon your table.

This last amendment, offered by the gentleman from Virginia, (**MR. TAZEWELL**), the subject of the present discussion is, to my mind, **MR. President**, the more inadmissible—I must say, intolerable, than all the propositions which have been submitted to this honorable body, or for the reformation or improvement of the present organization of our judicial system. Of the importance of this

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department of our national institutions, of that department which is concerned in the daily administration of distributive justice to the citizens of these United States, by a speedy, correct, and impartial decision of their various controversies, which arise to disturb the happiness of domestic or social life, we cannot speak too strongly, or estimate too highly. The effects and operations of the other departments of your Government—of your legislative and executive—the law giving and the law executing functionaries of national authority, you feel the force and enjoy the benefits at intervals. But the action of the judicial functions, is that which, as it pervades more intimately the affairs and concerns of men, has an almost incessant and constant influence on the society, the peace and happiness of which it was instituted to preserve and promote. With what caution and deliberate reflection, aided by all the lights of wisdom and matured experience, ought we to approach this interesting subject! Influenced by these considerations, the friends of the proposition embraced by the bill on your table, contemplate by its provisions, no radical change in the organization of your judicial system, which has been so long in operation; a system which framed by the experienced wisdom of many of those sages to whom the glorious charter of our liberties, the Federal Constitution, owes its birth, claims to participate largely in the advantages which so much wisdom, skill, and political knowledge and experience could bring to so great a work as the organization of a judicial system, corresponding to the wants, wishes, and interests of our extensive confederation.

This system, Mr. President, established by the act of 1789, framed in so much wisdom and experience—sanctioned by such names as the Congress of the United States of that period enrolled in the catalogue of its members—adopted as its model, for the outlines of its institution, that of the British Empire, from whom we derive our origin, and many of our inestimable institutions; and whose Judiciary, whatever we may think or say of the faults or defects of other departments of her Government—of the inequality of representation, or corruption of her House of Commons—of the aristocratic and dangerous character of her House of Lords, or of the arbitrary prerogatives of her King—as regards her Judiciary, it has been in its general organization, in the purity and correctness of its administration of distributive justice, the pride of that nation, and the admiration of the civilized world. The union of original and appellate jurisdiction in the twelve Judges of Westminster Hall, who, in their allotted circuits, traverse the extent of the British Isle, holding in each county, or shire, of that kingdom, a court of *Nisi Prius*, for the trial of causes arising within them, and adjourning questions of novelty, difficulty, or peculiar magnitude, to the Court of King's Bench, or other revising and controlling court of appellate jurisdiction at Westminster—has never yet been held as a blemish, much less of fatal error in the organization of the British Courts. Nor has the number of twelve judges, of which the courts of Westminster are composed, been complained of as inadequate to the discharge of the functions incident to the holding the courts of *Nisi Prius*, from age, infirmity, or any of those causes which are alleged by honorable gentlemen, as disqualifying the judges of our own Supreme Court from the discharge of the functions of Circuit Judges, to which they have been found entirely competent through the course of our long experience for a period of five and thirty years.

If this period, Mr. President, having its origin almost coeval with the origin and introduction of our happy form of Government, during which a generation has passed away, has marked the present system with no striking imperfection, with no flagrant abuse, indicating incurable defects in its general organization or prominent features—if, on the contrary, this faithful test of

long and tried experience, the surest foundation of human wisdom, and best guarantee for the permanency, as well as value of all human institutions, has affixed the stamp of its approbation on its value and utility, this tried experienced, and this long approval of the present system, by the American People, ought to form a strong barrier, which they have thrown around these existing institutions, not to be lightly or easily prostrated by the experiments of new and untried theories of mere speculation. Unless, indeed, such new theories shall be found, on examination, to be based upon foundations of reason and argument of the most satisfactory and conclusive character. Such, to my mind, Mr. President, have not been the character or force of the arguments presented to the Senate by either of the honorable gentlemen from Virginia, in favor of their respective *projets*, with which we have been favored in the course of this debate.

The plan of my honorable friend, (Mr. BARBOUR,) who moved you for the recommitment of this bill, for the purpose of maturing his *projet*, is to exempt the present Judges, who constitute the Supreme Court of the United States, from all the duties of presiding in, or holding the Circuit Courts, assigning, by his plan, all the duties of those courts, with any other appertaining to the exercise of original jurisdiction to a new corps of judges, to be created and appointed for this purpose, with the creation of salaries adequate to the attainment of this object. My honorable friend, passing by the considerations of the increase in the national expenditure, as matters unworthy his sublime genius and contemplations; and forgetful that the plan in substance, which he now proposes, was not only offered, but adopted, and put into prompt and immediate operation some five and twenty years ago, and was then found so little adapted to the interests or the sentiments of the American People, as to call from them at once, in terms too loud and strong to be resisted, or denied, an imperious demand for its repeal. A repeal was as promptly acceded to by the councils of the Nation, and a newly created host of judges, stripped of their salaries, their offices, and their honors, before time had been given them to enjoy, or even taste the delicious flavor of the dainties, which had been placed before them—to warm the seats on which they had been placed, or to be warmed by the ermines with which they had been enshrouded.

The honorable gentlemen from Virginia both object to increase the number of the Judges who at present compose this tribunal, which is urged and claimed to be one of the objects of the bill on your table. This objection, although plausible as it first presents itself, to increase the number of a tribunal now consisting of seven Judges, will soon vanish on the slightest examination of the nature, extent, and importance of the functions bestowed, and which, by our constitution, as it now exists, must necessarily be vested in this most tremendous and awful tribunal; for, such are its characteristics of power and jurisdiction, as legitimately vested in this Court by the terms as well as the fair scope and objects of the Federal Constitution: powers and jurisdiction far beyond those of the far famed Areopagus of Athens, Mr. President, transcendent, as they are known to have been, presiding as it did, in the pride and plenitude of its powers, not only over the laws, and deciding the controversies arising between the citizens of that powerful and splendid Republic, but empowered to watch over the police of the city of Athens and its various territories, but also to superintend the morals and the habits, and to regulate even the pleasures and amusements of the Athenian people. The Supreme Court of the United States is not only vested with powers and jurisdiction the most ample, for the decision of all questions and controversies arising under the constitution of the United States, the great charter of our rights and liberties; of all laws enacted under its au-

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thority; of all our controversies arising with foreign nations, whether originating from alleged infractions of treaty stipulations; violations of the public law, as between ourselves and foreign powers; the whole class of admiralty and maritime jurisdiction, embracing the whole of our external and much too of the internal commerce of this widely extended empire; including all the rights of peace and war. These may be called its judicial powers; and, vast and comprehensive as they are in their details and in the aggregate, what are they compared with that vast political power which is wielded by this tribunal in its character of judge? and judge in the last resort between the State and Federal Governments, in all the great and complicated questions of constitutional law, arising from the mutual action of the State and Federal authorities on each other. It is the exercise of the powers of this latter class, Mr. President, which, in our complicated system of Federal and State authorities, the most transcendent jurisdiction with which human tribunal was ever vested. It is in this character of judge and of mediator too, for they should be united, between the conflicting powers of Federal and State sovereignties, each sovereign and uncontrollable when acting within its legitimate sphere, that, poising the scale of even-handed Justice, this august tribunal holds in its hands the destinies of this mighty nation: in which it stands as arbiter between the nations; and it is at the foot of this tribunal that the constitution and laws of every state in this Union may be brought for final adjudication, and before which they may be prostrated.

And it is by the wise, mild, and guiding influence of this solemn tribunal, that the State Governments, revolving in the political, like the planets around the great source of heat and light in the natural world, are to be preserved, as by an attractive or centripetal force from flying off, by some temporary or transient disorder in its movements, from its regular orbit; and, by its aberration from the path prescribed by the constitution, producing confusion and dismay, if not ruin and destruction, in this beautiful but complicated system of our political union.

When we therefore view, as we should do, Mr. President, the vast and complicated powers of this tribunal, for the purpose of ascertaining the more perfect organization of which it is susceptible, for the more perfect accomplishment of its various functions, the sure and great desideratum is, that it be so constituted, as to bring within its reach and in the possession of its members, that knowledge, not only of the constitutions and the statutory regulations, but the unwritten as well as the written laws, together with the customs, usages, and even the manners and habits, various and diversified as they are known to be, of the four and twenty states, which constitute our great and extended confederation. For, if these Judges possess the power, and no one denies they have, of declaring, as null and void, and sweeping from the statute book of all and every state of this Union, not only any one law, but whole systems of laws which may be deemed by them to come in contact or collision with the constitution, laws, treaties, or authorities of the United States, or even with certain principles of ethics, or the penal code, the sanctions of which are placed under the guarantee of the Federal Constitution; in this view of the powers of this tribunal, we are called upon to say, whether ten Judges, of which number the bill on your table proposes that Court shall hereafter be composed, is too large a one for the attainment of the great purposes of its institution.

The gentleman from Virginia, most remote on my left, (Mr. TAZEWELL,) insists that the number of which that tribunal is now composed, is too large; that he would desire to see it less; and objects, too, to increase to the number ten, because it being an even number requires more than a majority of a single Judge to reverse the judgment of an inferior tribunal; and to the principle

of increased numbers in the composition of judicial tribunals, because, as he alleges, by adding such increase of number, you diminish the responsibility of the judges; it being a maxim with him in politics, that, in proportion to the increase of numbers in those who are to exercise authority, is the decrease of responsibility to those who delegate it.

In reply to this objection, Mr. President, it may be safely admitted, that responsibility is a principle of great weight and importance in the delegation of political power. That there is much, too, in the responsibility of Judges to the depositors of the powers which they may be disposed to abuse; that in this responsibility is regarded the honor, the conscience, the reputation of the Judge; the awful sanctions under which he acts; his amenability to human tribunals by impeachment; to the people from whom he derives his power, and for whose good he ought to exercise it. That after all that could be asked or conceded to this principle in the constitution of these tribunals, however beautiful or valuable the principle in theory may appear, it requires but little reflection or observation to convince us, that, from the unfrequency of attempts to bring to any practical beneficial result by impeachment and removal from office of the Judge who shall have violated any of these solemn sanctions; and the total inadequacy of such a result in case of conviction, to afford redress or compensation for the injury inflicted on the individual or the community, that it is not to this principle of responsibility we are to look as that of primary importance in the organization of the judicial power as the means of securing those vital and essential benefits which a wise and happy organization of this important tribunal is calculated to insure to the citizens of this nation. No, Mr. President, it is not to the responsibility of the Judges of this tribunal, vast and weighty as that responsibility is thought to be, that you are to look mainly for the wisdom, equity, and justice of its decisions. It is to the wisdom, it is to the extensive, diversified, and profound knowledge, political, judicial, as well as municipal, of the constitution and laws, not only of the United States, but each and every state composing this Union; with all their diversities, as created and modified by climate, by education, by habits, by interest, and a thousand other causes. It is to this knowledge, to be acquired by all the means of reading, observation, experience, and practice, and to the virtue of your Judges, more than to their responsibility, that you are to look for all those benefits and all those blessings which may be destined to flow, as the inheritance of unborn millions, from the enlightened and correct exposition of the constitutions and laws of this Union, and of the states of which it is composed. The great desideratum in the members of this tribunal, acknowledged on all hands to be so important, is a knowledge, perfect and complete, of the constitutions, the laws, statutory as well as the common law, the unwritten as well as that which is written, with the various customs and usages of the different states of the Union, as well as of the numerous judicial decisions of the state tribunals, by which certain fixed constructions and interpretations have been given to the constitution and laws of each. How is this knowledge, so essential, so indispensable, to be obtained? And is this mass of information upon points so essential to the discharge of the judicial functions in the distribution of justice in individual controversies, and of such infinite consequence to the happiness, prosperity, and harmony of the Union, more easily to be acquired by a small number of Judges, composing this tribunal, created within the favorite precincts of this ten miles square, employed in the exercise of appellate functions only; or by a number of Judges equal to that proposed by the present bill, discharging not only those appellate duties, as under the present system, but also traversing by sections as allotted amongst them, every portion of this widely extended empire; some one

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of them passing into and presiding in the National tribunal in every state, and thus, by constant observation, successive experience, by the arguments of enlightened counsel, reared and educated in the bosom of the states respectively, as well as from daily social intercourse, making constant and successive acquisitions from the highest source, from the fountain head, and, from thence communicating to their brethren of this bench, a complete and perfect knowledge of the code of each individual state, with all the diversities and modifications of each. And it is in this mode alone, that the Judges of your Supreme Tribunal are to continue, as they have heretofore, in the active and constant discharge of their functions of Judges of the courts of original jurisdiction, by presiding in the Circuit Courts, that they will come imbued with a knowledge of the constitutions, laws, and usages of the several states, the history of their birth, the causes of those successive changes, the objects of the modifications which they may have successively undergone, and the sense which has been assigned by successive adjudications of the tribunals of the states, by the interpretations which they have given to the various clauses of those laws and constitutions which have for ages constituted the safeguard of the citizen, the guarantee of all his rights, and which contains the charter of all his civil liberties.

All this information, so difficult in the acquisition, so complicated in its thousand details, so difficult, so impossible of access at the seat of Government, my honorable friend, (Mr. BARNOUR,) seems to think may be acquired through the medium of the counsel at the bar, who will follow the causes from the states in which the controversies originate, to the bar of this Court, for final adjudication. But the slightest reflection will satisfy my friend himself, that this source of information, on topics of which it is so indispensable that the Court should be fully and well informed, is of all others the most defective and fallacious. But suppose that neither the magnitude of the cause, or the circumstances of the parties, will justify the employment of any counsel either at home or abroad; or suppose that counsel on one side only is sent from the state from which the appeal is brought for an adjudication, which in its consequences may affect the interests or touch the liberties or franchises of the citizens of the whole state; then, in such a case, are the Judges of this tribunal limited in the exercise of their judicial functions to the boundaries of this magic circle, within the ten miles square. Where is he to find the clue to guide him through the labyrinth of complicated laws, perhaps obscurely penned; in phraseology of ambiguous or doubtful meaning; which he is then for the first time called upon to adjudicate, an utter stranger? The most virtuous, enlightened, and upright Judge, thus circumstanced, must feel embarrassment and dismay; exposed to fall into error and mistake; and from which neither the books in his own, or the public library here, or any other source of information within his reach, will afford him means to escape.

But, in opposition to the proposition of my honorable friend from Virginia, my honorable friend from Maine, who sits before me, (Mr. HOLMES,) ventured, in a passing remark or two, to suggest, that the Judges of this august tribunal were *sufficiently national*, as he feared already, as evidenced by the tenor of their recent adjudications, touching this delicate and important topic of their jurisdiction, the collision between the National and State authorities; and ventured to suggest his fears, that an entire separation of the functions and duties now exercised by the Judges of the Supreme Court, as Judges of the Circuit Courts residing in the several states, agreeably to the *projet* under consideration, was not calculated to render those Judges less national in their sentiments and opinions on this important branch of their jurisdiction. At this suggestion, my honorable friend takes fire, and reprobates in terms of the severest

censure, what he chose to consider as an assault on the dignity or purity of the members of this bench. Now, for myself, Mr. President, I must confess, that to my mind, there was nothing in the remark of the honorable gentleman from Maine, calculated to excite the ire, or to call for rebuke from the more fastidious advocate for decorum in debate, as regards the dignity of this body to whom it was addressed, or incompatible with either the dignity or purity of the members of the dignified tribunal to whom the remark referred.

It is most true, that the Supreme Court of the United States as the head of one of the great departments of our free and happy government, deserves, and should receive all that personal respect and regard which their exalted situation is calculated to inspire. But it is equally true, that it is essential to the freedom of debate in a legislative body, vested with powers, and clothed with solemn duties, so to model and organize this tribunal as to adapt it, in the best manner possible, to the correct exercise of these important duties, for which it was designed by the constitution, to speak of it as it is, and with a decent, though respectful freedom.

In discharge of this high and solemn duty, I must take leave to repeat the question asked by the honorable Senator from Maine, Whether there is not some cause to apprehend that, if divested of all original jurisdiction, and dispensed from the exercise of functions which require the Judges to pass into, and preside in the tribunals of original jurisdiction within the respective states, and for the exercise of the appellate powers with which they are invested, limited to the range, and placed within the attractions of this favorite ten miles square, the seat of national splendor and national power—a spirit, a little *too national*, may not be imbibed by the members of this tribunal, august and dignified as it is? The vast and transcendent powers and jurisdiction of this court, with the importance of a correct, enlightened, and impartial exercise of those powers, to the future peace, happiness, and prosperity, of our Union, has been briefly hinted at, but not the singularly important and delicate position which this tribunal occupies, as the judge and mediator in all conflicts and collisions between the powers of National and State sovereignties, between whom it is so important to the prosperity and happiness of all, that the scales of Justice between them should be poised by the most even hand; yet it is obvious, from the very nature and organization of this tribunal, deriving its existence, the appointment of its Judges, from one of those powers, the Government of the nation, that power from which all its honors flow—from whom the emoluments and rewards of office are received—and to which all its responsibilities, as recognized by the constitution, are due. Is there not, Mr. President, in the very origin and organization of this tribunal, if not a radical defect, at least enough to justify every wise and cautious statesman, so to regulate the duties of the members of this tribunal, as to correct, as far as practicable, any apprehended bias resulting from the nature and organization of this tribunal, by such regulations as wisdom may prescribe, or long experience suggest? And how can this object, so desirable, be promoted with more success than by the organization of the present judicial system of the United States, by which the Judges, in discharge of their functions of Circuit Judges, are compelled, in their allotted circuits, to visit all the various states of our extensive Union, and in the discharge of their judicial functions, as well as the social intercourse which dwells with the citizens and inhabitants, preserves in the bosoms of the Judges of this tribunal, sentiments and feelings connected, in some degree, with the just pride, the sovereignty, and constitutional independence of the states? The feelings and recollections of these may not always remain so vivid in the breasts of judges permanently residing within the bosom of no particular state, but within a peculiar do-



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minion of the United States. These suggestions, Mr. President, are the offspring of no unreasonable distrust of human virtue, much less of any want of respect for the truly revered and exalted characters of the Judges by whom that bench is filled, but from a consciousness of the infirmities of human nature, and a desire to guard, as far as human wisdom can, against their mischievous tendencies—suggestions, the wisdom of which will not be controverted until, indeed, we shall be convinced that angels, in the shape of men, have come down to judge for, as well as to rule over us.

But the sensibility of my honorable friend, to a supposed attack on the purity of this tribunal which none has, or I presume, will call in question, even by insinuation the most remote, was as uncalled for as unexpected, as regards the quarter from whence this chivalric spirit comes. For, among the states of this Union, which, from New Hampshire, in the North, to Georgia, in the South, embracing Ohio and Kentucky, in the West, have, in succession, felt the glow of indignant resentment at the real or fancied dangers to which they have been exposed, from the real or imagined infringement of their sovereign rights, from the claim or exercise of jurisdiction by this tribunal, Virginia surely has not been without her private griefs. Nor has the jealous vigilance of that proud, high minded state, felt, or indicated, a disposition to acquiesce tamely, and without a struggle, in the claims of jurisdiction on the part of this Supreme Court of the Nation, touching, as she conceived, her rights and prerogatives as one of the members of this Union of independent states. Nor has she been slow or feeble in the measures she pursued, in vindication of her rights thus supposed to be endangered. Passing by her manly and spirited opposition to the sedition act, and the conduct of the Federal Judges in enforcing its sanctions in violation of the constitution of the United States—need I remind my honorable friend of the firm and decided stand taken by the Supreme Court of that patriotic state, a tribunal filled by men illustrious for their virtuous and enlightened minds, to the jurisdiction claimed and exercised by the Supreme Court of the United States, in the famous case of *Fairfax and Hunter*; a case in which, after solemn argument and mature deliberation, the Supreme Court of that state, if I am not mistaken, not only decided against the power thus claimed and exercised by this tribunal of the nation, to take jurisdiction by writ of error, of cases of private right which had been finally decided by that Court as the tribunal of the last resort within the state; but resting on the sovereign power of the state, refused peremptorily to obey the mandate of the Supreme Court of the United States. A refusal which, but for the mild and conciliatory course adopted by this latter tribunal, of directing the execution of their mandate by their own immediate officer, might have brought at once the authorities of the State and Federal Government into a state of fearful and alarming conflict; at the possible consequences of which every real patriot must shudder. Nor was this the only occasion in which this high minded and patriotic state, has evinced alarm at the encroachment of this tribunal, as she deemed them, on her power and jurisdiction as an independent state. A case, much more recent than that just alluded to, and of familiar recollection to us all—the case of *Cohens* against the Commonwealth of Virginia, in which a jurisdiction was again claimed and exercised under the 25th section of the Judiciary Act of 1789, by the Supreme Court of the United States, to arrest the Supreme Tribunal, or Court of Law of that state, having jurisdiction in the case, in the regular enforcement, in the usual form, by information, of one of her penal laws—a law prohibiting the vending of tickets in any lotteries but those established by the authority of the state. The enforcement of the wholesome sanctions of this law was deemed important, not only in the protection of the morals and preservation of the interests of her citizens, but

against the operation of a by-law of the Corporation of this city, passed in pursuance of an act of Congress, and controlling in its operation the penal and municipal regulations of the state. That Virginia did feel some alarm at this apprehended violation of her rights as a sovereign and independent state, her rights, by wholesome regulations, to the internal police of her own state, on points entirely municipal; and that some of her most enlightened statesmen were alarmed at the attempt to arraign at the bar of the federal tribunals, as a party in the record, the state itself, which was made a party to the case, is evinced by the fact, that counsel of the first distinction, the most eminent in their public councils, was deputed and appointed on the part of the commonwealth, to maintain its sovereign rights believed to be infringed by this claim of jurisdiction on the part of the Supreme Court of the United States. That this jurisdiction thus claimed by the Court of the Nation to decide on the sovereign rights of the states by appeal, or writ of error, was maintained by this tribunal, must be in the recollection of all who are in the habit of attending to subjects of this nature. And that Virginia escaped from what she might possibly have supposed the mortifying, if not degrading, consequences of a defeat in this struggle for the maintenance of her sovereign rights is to be ascribed alone to the peculiar phraseology of the act of Congress by which this power of creating lotteries is delegated to the corporation, not to any defect of power on the part of Congress, as the exclusive legislature over the ten miles square, so to have framed this delegation of power, as to have arrested the power of that commonwealth in the established enforcement of suitable regulations for the government of its own citizens in relation to the internal police thereof.

But these occurrences, Mr. President, strongly calculated as they are to arouse the feelings and excite the apprehensions of the patriotic statesman, anxious for the perpetuation of our happy Union, like most other political occurrences, transient as a winter's storm, quickly pass away and are forgotten: and those states, once so agitated by the supposed danger of tyranny or usurpation, sink into profound repose. Thus Maryland, Kentucky, and Ohio, in their turns, have had to encounter the power and influence of that great engine of political power, the Bank of the United States; have been severally attacked, and, after a feeble and ineffectual struggle, have been successively vanquished in the contest; have contended without aid or co-operation from their sister states, who, aloof from the contest, have seemed indifferent to their fate. Nor have the generous sympathies of their brethren been sufficiently enlisted to elicit even a salutary jealousy of the ultimate consequences to be feared from a succession of such attacks and triumphant victories over the several states on the part of the General Government and the institutions to which it has given birth.

I trust, however, Mr. President, that, in these remarks, briefly touching on the apprehended tendency of some recent decisions of this tribunal for which, as well as its several members, I entertain none but the most respectful sentiments, it will not be understood that I mean by insinuation to cast the slightest shade of imputation on the purity of intention or the correctness of judgment with which justice is impartially dispensed from this exalted bench. All I mean to contend for, is, and it is certainly open to candid and fair remark, that, from the nature and organization of this tribunal, deriving all its powers, honors, and emoluments from the government of the nation, to which all its responsibilities alone are due; that such is the present imperfect state of human nature, unless attributes more than human be ascribed to the members of whom it is composed, that there is some cause to apprehend an unconscious bias; a bias the more to be apprehended, because it may be an innate of the more virtuous mind. And, that it is therefore the duty of eve-

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ry patriotic and enlightened legislator, to correct the tendencies to such dangerous bias, by any means which legislation is competent to effect; I have therefore endeavored, I trust not in vain, to argue, that it is by the discharge of the duties of Circuit Judges within the several states according to the present wise organization of the Courts of the United States, and the associations which the discharge of those duties produce, that a competent knowledge of the constitutions, laws, and customs, and all the variety of their modifications, can be best acquired by the members of the bench of the Supreme Court of the United States, and those feelings of equal regard and veneration for the sovereign rights of the individual states be imbibed and cherished, which alone afford a fair promise of the correct discharge of the important duties of impartial umpires between the governments of the states and that of the nation, so imperatively demanded by the theory of our complicated forms of government, and on which the happiness and prosperity of our common country and the perpetuation of its free institutions so essentially depend.

The present system of organization of the Courts of the United States, founded in much wisdom, framed by many of the sages to whom we are indebted for the great charter of our liberties, sanctioned by a happy experience of thirty-five years; adapted to the administration of justice by the same impartial means; and well adapted to the number and extent of the states which at that time composed our Union; the benefits of which, by a simple extension of the system, and application of its principles to the nine western states, which have swelled the number and added to the wealth, power, and resources of the Union, is all we ask, is all the bill on your table contemplates, and is that to which no honorable member of this body has denied our unquestioned right.

On what ground, then, I ask, is it now to be withheld? The demand is not now for the first time urged on the councils of the nation. For several successive sessions it has been solicited, urged, and pressed for; but as yet in vain. On the part of the opposers of this bill, what is urged in opposition? Why time, time for deliberation! We, the friends of the measure, are preparing something new of vast importance. What we ask, seems to be perfectly fair and reasonable. This procrastination, Mr. President, from the last to the present session, from the commencement of the present to almost the point of its termination, is that of which the friends of this measure have a right to complain. The advocates of the measure seek for the establishment of no new principle; no new modification of those which are old and well established. A simple extension of the principle of the Federal Courts, to meet the increased numbers of our states and population. It is what imperious justice gives us a right to ask; what the councils of the nation cannot in justice hesitate to grant. Hope, already long deferred sickens at the apprehensions of further delay in the execution of this necessary work; and the people of the West, already deeply injured by the long delays which have already intervened, cannot much longer fold their arms in silent acquiescence at the injustice of such repeated and unjustified delays.

Let me bring home the force of these remarks, to the bosoms of honorable Senators, representing here the ancient states, which, from the origin of your system have been in the constant and full possession of its benefits, to say, what would be their emotions, if it were proposed that Virginia, for example, should no longer have a member of the bench of the Supreme Tribunal to preside in the Circuit Courts, but should be content with her District Judge. Yet, would such deprivation be no more unjust than the denial of the same advantage to each of the new states which have been admitted into the Union since this system was adopted and received its present form.

Upon this hasty and desultory sketch of the views on which this bill is advocated by its friends, I will, with the utmost cheerfulness, submit it to its fate, only deprecating, as I do most fervently, any attempt on the part of its opposers, by farther unnecessary delays at this advanced stage of the session, to defer its passage without a direct decision on its merits—of the correctness and justice of which I have nothing to apprehend.

Mr. FINDLAY, of Pa. made a few remarks expressive of the doubt he still felt on the subject, notwithstanding all that had been said; and concluded by moving an adjournment.

The Senate adjourned.

#### HOUSE OF REPRESENTATIVES—SAME DAY.

##### GEORGIA MILITIA CLAIMS.

The House proceeded to the unfinished business of yesterday.

The resolution of the Committee on Military Affairs, rejecting those claims, was concurred in by the House. [This question was, in effect, decided yesterday, when the House refused to recommit the report.]

##### MASSACHUSETTS MILITIA CLAIMS.

Mr. HAMILTON moved that the House take up the bill providing for the Massachusetts Militia Claims, and, with a view to ascertain whether it was the determination of the House to act on that subject at the present session at all, he demanded the yeas and nays on his motion. The House refused to order the yeas and nays—and the motion was negatived.

On motion of Mr. VANCE, of Ohio, the House then went into committee of the whole, Mr. SAUNDERS in the chair, on the bill to provide for the relinquishment of certain claims for land sold, by the United States, in the state of Ohio.

Mr. RANKIN (Chairman of the Committee on the Public Lands,) explained the circumstances of the case on which the bill is founded.

In 1784, Virginia ceded to the United States the Northwestern territory, out of which the states of Ohio, Indiana, and Illinois, have since been formed. Previous to this cession, Virginia had promised to her continental soldiery a certain rate of land as bounty. In order to fulfil their promise, that state set apart a certain tract of land in Kentucky, and in the act of cession above referred to, it was made a condition that, if this tract in Kentucky proved insufficient to satisfy all the bounty warrants issued by Virginia, Congress should set apart another tract north of the Ohio, and between the Scioto and Miami rivers, (in what is now the state of Ohio.) Soon after the cession, about the year 1788, many unauthorized locations were made between those rivers, before the tract was set apart by Congress. These locations, Congress declared to be invalid. In 1790, Congress having evidence on the part of Virginia, that the tract in Kentucky was insufficient, set apart this tract between the Miami and the Scioto, according to the stipulation in the act of cession. No difficulty occurred in fixing its boundaries on three of the sides, because these consisted of the rivers Ohio, Scioto, and Miami; but some difficulty did occur in fixing the remaining boundary line from the source of the Scioto, to the source of the Miami, both which points then lay in the Indian country. In 1804, Mr. Ludlow, the United States' surveyor for that district, ran what he supposed to be the true line. All the lands East of this were subject to the Virginia warrants. All the lands West of it were held to belong to the United States, and were sold accordingly; but the accuracy of this line being disputed, commissioners were appointed on the part of Virginia and the United States, by whose direction a second line was run by another surveyor, called Roberts, which started from the same point, viz: the source of

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the Scioto, but ran towards a different point, now found to be the true source of the Miami. Thus there occurred a gore between Ludlow's line and Robert's line. Upon a suit to try the question, the District Court of the United States decided, that the land in this gore was subject to the Virginia warrants—but the land had already been sold by the United States to actual settlers. To those persons now deprived of their settlements, compensation was to be made, and the Committee on the Public Lands had come to the conclusion, that the rate of this compensation ought to be regulated by the valuation of these lands, made in obedience to an act of Congress, at the last session. The gore contained 14,000 acres, and the valuation of the land, exclusive of improvements, amounts to \$60,000. The present bill provides that this sum should be put into the hands of the President of the United States, for the purpose of quieting all location claims prior to the year 1812.

The bill was then reported without amendment, and ordered to be engrossed for a third reading to-morrow.

The House then went into committee of the whole, Mr. CONDUCT in the chair, on the Senate's amendments to the General and Naval Appropriation bills.

The first amendment, which proposes to strike out a compensation made to Mr. T. H. Gilliss, for extra services performed during the illness of the late Fourth Auditor, gave rise to a desultory debate.

Mr. M'LANE moved that the House disagree to the amendment of the Senate. He advocated the justice of making this allowance to Mr. Gilliss, who had performed this service over and above his own duty as Chief Clerk. The extra service, (which often kept him in the office till two o'clock in the morning,) ought, in justice, to receive an extra compensation.

Mr. COCKE, Mr. WHIPPLE, and Mr. FLOYD, successively advocated the amendment of the Senate, and opposed the appropriation. First, on the ground that, when the United States employed a clerk, at a given salary, they engaged with him for his whole time, if their service required it. Secondly, that the salary of the officer who was sick, was paid to him in full, although he was personally unable to render any service for the same; and, if a substitute was employed, it must be at his expense. Thirdly, that this was setting a novel precedent, and introducing a new and dangerous principle into the practice of the Government. Fourthly, that these duties, during a greater part of the time, had been performed, not by the Chief Clerk in the Fourth Auditor's Office, (Mr. Gilliss,) but by the Second Auditor, (Mr. Lee.) The question being taken, the House concurred in the amendment of the Senate, and struck out the appropriation. The next amendment of the Senate proposed to strike out the appropriation of \$1,700 for two additional clerks in the office of the Surveyor of the United States for the district South of Tennessee.

The amendment was advocated by Messrs. COCKE and M'COY, on the ground that the House had not sufficient proof that these clerks were needed—they had not been asked by other surveyors, &c.; and opposed by Messrs. OWEN, of Alabama, and GURLEY, of Louisiana, who stated the circumstances of the case, explained the necessity of these clerks, as arising from a resurvey of all those sections of the public lands through which large rivers ran.

In the sales hitherto made of such sections, the space occupied by the river had been deducted only by estimate—in consequence of which, purchasers sometimes got more, and sometimes less, than they paid for. The records, also, in this office, were in arrears for fourteen years back.

On the question of concurrence with the Senate in striking out this appropriation, the Ayes were 63, the Noes 78. So the amendment of the Senate was disagreed to.

The next amendment, which proposes to insert \$14,000 for furniture for the President's House, was adopted, ayes 80.

The amendment which proposes to strike out the appropriation of 12,000 dollars for the pay of six commissioners to settle the title to lands in Florida, was disagreed to.

[Mr. CALL, (Delegate from Florida,) stated the circumstances of the case, and strongly represented the injury which would result from interrupting the operations of the two Boards of Commissioners, now in session in East and West Florida.]

So the appropriation was retained.

The last amendment which appropriates \$5,000 for graduating and improving the grounds round the President's House, was agreed to, ayes 70, noes 65.

#### IN SENATE—MONDAY, FEBRUARY 17, 1825.

The Senate resumed, as in committee of the whole, the bill to amend the judicial system of the United States, and to authorize the creation of three additional Circuit Courts: Mr. TAZEWELL'S motion to exclude the additional circuit judges from being judges of the Supreme Court, still pending.

Mr. TAZEWELL submitted one or two additional reasons which weighed with him in offering his amendment; and

Mr. BARTON, of Missouri, briefly stated his reasons for opposing the amendment; and also why he disapproved of the bill as it stood.

Mr. MILLS, being convinced that the remaining time of the session did not permit this subject to be matured in the Senate, moved that the bill be recommitted, in order that the Judiciary Committee might consider the various plans proposed, and report some one likely to unite a majority of the Senate in its favor.

The expediency of recommitment was briefly debated by Messrs. MILLS, HOLMES, of Me. TALBOT, EATON, and JOHNSON, of Ken.; when

Mr. EATON moved to connect with the motion for recommitment, instructions to the committee to report a bill with the following provisions:

"The United States shall be divided into the following circuits:

"The states of Maine, Massachusetts, New Hampshire, Vermont, Rhode Island, and Connecticut, shall form the first division, to which two additional associate justices shall be appointed;

"The states of New York, New Jersey, Pennsylvania, Delaware, and Maryland, shall constitute the second division, to which one additional associate justice shall be appointed;

"The states of Virginia, North Carolina, South Carolina, and Georgia, shall form the third division; and

"The states of Louisiana, Mississippi, Alabama, Tennessee, Kentucky, Ohio, Indiana, Illinois, and Missouri, shall constitute the fourth division, to which four additional associate justices shall be appointed.

"That the justices of each circuit shall, according to their own arrangement, hold the circuit courts of the respective states within the several circuits, at such time and place as may, from time to time, be prescribed, and shall, on or before the first Monday of December in each and every year, appoint one of their number to proceed to Washington, to hold the session of the Supreme Court, which said justices, so appointed, together with the chief justice, shall hold the Supreme Court at Washington City: Provided, that this provision shall not take effect during the continuance in office of the present associate justices; and provided, also, that once in ——— years, if any question shall be pending in the Supreme Court, as to the constitutionality of the act of any state, or in which may be involved the right of any state, the President of the United States, on information of said

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fact from the chief justice, shall, by his proclamation, order and direct the whole number of associate justices to attend at the next term of the Supreme Court, to hear and decide said question; and which shall be placed on the docket first in order for consideration."

Mr. RUGGLES stated his objections to the proposition of Mr. EATON, and also to the discrimination proposed by the amendment of Mr. TAZEWELL, which he deemed highly unjust and injurious to the Western states, and one which ought not to be attempted. Mr. R. also urged the necessity of providing a remedy, without delay, for the inconvenience experienced in that large portion of the Union, by the defect of the judicial system; and hoped the question would be met fairly, and not embarrassed by endless propositions for modification or recommitment.

Mr. HOLMES, of Maine, made some remarks to shew the impracticable nature of the scheme proposed by Mr. EATON.

Mr. KING, of N. Y. considering that it became more and more apparent that the subject could not be effectually acted on at the present session, moved that the bill and amendments be indefinitely postponed.

The motion was decided in the negative by Yeas and Nays, as follows:

YEAS.—Messrs. Barbour, Barton, Branch, Clayton, Cobb, D'Wolf, Edwards, Elliott, Findlay, Hayne, King, of N. Y. Lanman, McIlvaine, Macon, Mills, Taylor, Tazewell, Van Buren, Van Dyke—19.

NAYS.—Messrs. Bell, Benton, Bouligny, Brown, Chandler, Dickerson, Eaton, Gaillard, Holmes, of Me. Holmes, of Miss. Jackson, Johnson, of Ken. Johnston, of Lou. Kelly, King, of Alab. Knight, Lloyd, of Mass. McLean, Noble, Palmer, Parrott, Ruggles, Seymour, Smith, Talbot, Thomas, Williams—27.

Mr. EATON then, at the suggestion of several members, withdrew his amendment, with the intention of offering it hereafter, if the question on the recommitment prevailed.

The question was then put on the recommitment, and negatived by the following vote:

YEAS.—Messrs. Barbour, Barton, Benton, Bouligny, Branch, Clayton, Cobb, D'Wolf, Edwards, Elliott, Findlay, Hayne, King, of N. Y. Knight, McIlvaine, Mills, Taylor, Tazewell, Van Buren, Van Dyke, Williams—21.

NAYS.—Messrs. Bell, Brown, Chandler, Dickerson, Eaton, Gaillard, Holmes, of Me. Holmes, of Miss. Jackson, Johnson, of Ken. Johnston, of Louis. Kelly, King, of Alab. Lanman, Lloyd, of Mass. McLean, Macon, Noble, Palm. r, Parrott, Ruggles, Seymour, Smith, Talbot, Thomas—25.

The question was then taken, without further debate, on Mr. TAZEWELL'S motion so to amend the bill that the additional circuit judges shall *not* be justices of the Supreme Court, and was decided in the negative by the following vote:

YEAS.—Messrs. Branch, Clayton, Cobb, D'Wolf, Elliott, Tazewell—6.

NAYS.—Messrs. Barbour, Barton, Bell, Benton, Bouligny, Brown, Chandler, Dickerson, Eaton, Edwards, Findlay, Gaillard, Hayne, Holmes, of Maine, Holmes, of Miss. Jackson, Johnson, of Ken. Johnston, of Louisiana, Kelly, King, of Alab. King, of New York, Knight, Lanman, Lloyd, of Mass. McIlvaine, McLean, Macon, Mills, Noble, Palmer, Parrott, Ruggles, Seymour, Smith, Talbot, Taylor, Thomas, Van Buren, Van Dyke, Williams—40.

Mr. VAN BUREN thought it apparent, from the votes of to-day, that the Senate was not only determined on acting on this subject, but was decidedly in favor of the principle contained in the bill: that is, the appointment of additional circuit judges, who should be also Judges of the Supreme Court. For himself, he preferred the plan that had been offered by Mr. BARBOUR; the separation of the Supreme Court from circuit duties; but, as

the Senate favored the plan proposed by the bill, he rose to move a single amendment, which was to reduce the *additional* number of Circuit Judges to be provided for by the bill to *two*, so that there should be (with the present one in the Western states,) *three* Circuit Judges in that section of the Union.

This motion was supported by Mr. VAN BUREN and was opposed by Messrs. TALBOT and HOLMES, of Maine; when

The question was taken on the amendment, by yeas and nays, and decided in the *affirmative*, as follows:

YEAS.—Messrs. Barbour, Barton, Bell, Branch, Chandler, Clayton, Cobb, D'Wolf, Eaton, Edwards, Elliott, Findlay, Hayne, King, of Alab. King, of New York, Knight, Lanman, Lloyd, of Mass. McIlvaine, Macon, Mills, Parrott, Seymour, Smith, Taylor, Tazewell, Van Buren, and Van Dyke—28.

NAYS.—Messrs. Benton, Bouligny, Brown, Dickerson, Gaillard, Holmes, of Maine, Holmes, of Mississippi, Jackson, Johnson, of Kentucky, Johnston, of Louisiana, Kelly, McLean, Noble, Ruggles, Talbot, Thomas, and Williams—17.

The bill was then recommitted to the Judiciary Committee, (for the arrangement of the circuits, &c.)

The Senate took up their amendments to the appropriation bills, which had been disagreed to by the other House, and receded from each of them, except that which strikes out the appropriation of 12,000 dollars for the compensation of the Florida Land Commissioners.

On the question of receding from their disagreement to this appropriation, a debate of considerable length ensued. It was urged against the appropriation, that the commission had expired by its limitation; and that, if its continuance was necessary, it ought to be renewed by law, and not continued by an appropriation. That it was in principle wrong to appropriate money for objects not previously authorized by law, &c. On the other hand, it was urged, that the commissioners had not completed their duties; that it was all important to the people of Florida that their land titles should be examined and adjusted; that great evils would arise from leaving the business unfinished, &c. &c.

The question being then taken on receding from the amendment, it was negatived by a vote of 22 to 11; and the Senate insisted on striking out the appropriation.

The President communicated to the Senate the following letter from the Secretary of the Treasury:

TREASURY DEPARTMENT,  
16th February, 1825.

SIR: In conformity with the provisions of the act of the 10th February, 1820, entitled "An act to provide for obtaining accurate statements of the Foreign Commerce of the United States," I have the honor to transmit, herewith, the following statements of the Commerce and Navigation of the United States during the year ending on the 30th day of September, 1824, viz:

1st. A. A general statement of the quantity and value of merchandise imported into the United States from the 1st October, 1823, to the 30th June, 1824.

1st. B. Do. do. from 1st July, to 30th Sept. 1824.

2d. A summary statement of the same.

3d. A general statement of the quantity and value of Domestic Articles exported.

4th. A general statement of the quantity and value of Foreign Articles exported.

5th and 6th. Summary statements of the value of Domestic and Foreign Articles exported.

7th. A general statement of the amount of American and Foreign Tonnage employed in the Foreign Trade of the United States.

8th. A general statistical view of the Commerce and Navigation of the United States.

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Deposites in Public Stores—Illinois Canal.

[H. of R.]

9th. A statement of the Commerce and Navigation of each State and Territory.

From these statements, it appears that the imports during the year ending on the 30th September, 1824, have amounted to \$80,549,007, of which amount \$75,265,054 were imported in American vessels, and \$5,283,953 in foreign vessels; that the exports have, during the same period, amounted to \$75,936,657, of which, \$50,649,500 were domestic, and \$25,337,157 were foreign articles; that, of the domestic articles, \$43,444,619 were exported in American vessels, and \$7,204,881 in foreign vessels; and of the foreign articles, \$23,967,087 were exported in American vessels, and \$1,370,070 in foreign vessels; that 850,033 tons of American shipping entered, and 919,278 cleared from the ports of the United States; and that 102,367 tons of foreign shipping entered, and 102,552 cleared from the ports of the United States during the same period.

I have the honor to be, sir, with great respect, your obedient servant,

WM. H. CRAWFORD.

Hon. President of the Senate pro tem.

The letter was read, and

On motion of Mr. LLOYD, of Mass. it was ordered, that 1000 copies thereof, with the documents accompanying it, be printed for the use of the Senate.

After some other business,

The Senate adjourned.

#### HOUSE OF REPRESENTATIVES—SAME DAY.

##### DEPOSITES IN PUBLIC STORES.

Mr. M'KIM renewed a motion he made yesterday to take up the bill to extend the right of deposit in public or other stores, on certain conditions, and with certain privileges to other goods, besides wines, teas, and distilled spirits.

The House accordingly went into committee of the whole on that bill, Mr. FOOT, of Connecticut, in the chair; it was read by sections.

Mr. M'KIM briefly explained the object of the bill, which is to introduce the policy lately adopted by European powers in respect to depots for goods, (in order to save to the merchant the 2½ per cent. now reserved on drawbacks.)

The blank for the time in which the bill is to commence its effect was filled with *the first day of July next*.

The blank directing the sum to be retained out of the duties, was filled with *one half of one per cent.*

The blank for the duration of the act was filled with *three years*.

The bill was then reported as amended.

Mr. CAMBRELENG professed himself decidedly friendly to the bill; but, from the conversation of gentlemen near him, he feared that the House were not prepared to act finally upon so important a measure. It certainly would be very useful to the commerce of the country, and he should very much regret to see it rejected from a misapprehension of its advantages. In order not to press the measure at so late a period of the session, and with a view to secure its adoption after it may have been more deliberately considered by the House, he would move to lay it upon the table.

Mr. M'KIM having expressed much surprise at the opposition of the gentleman from New York—

Mr. CAMBRELENG explained. He hoped the gentleman from Maryland would not understand him as in any manner hostile to the measure proposed—his chief and only object was to ensure its success. He had made the motion at the suggestion of gentlemen near him, who, although not unfriendly, were not yet prepared to act upon a measure so important. The bill proposed to introduce the system of deposit practised in England, where it had been found useful, and where there were Government warehouses; here, we were not so well

prepared for the system. He had no doubt the House would adopt the measure, whenever they should have full time to deliberate upon it, and to understand it. He thought there were at this moment measures more interesting to the commercial interest, which ought now to command the attention of Congress. He referred to the piracy bill, &c. If, however, the House were prepared to pass the bill, after the slight consideration given it, he should be gratified.

Mr. MALLARY advocated the passage of the bill to a third reading.

Mr. RANKIN suggested some danger of storing the goods in private warehouses, of which the owner of the goods possessed the key.

Mr. M'KIM explained. There were two locks; the key of one of which was held by the collector, the other by the proprietor. No need at present existed for very extensive warehouses.

Mr. OWEN opposed any delay in passing the bill to a third reading. If objections existed, they could be urged afterwards, on the question of its final passage.

Mr. WOOD apprehended danger of fraud, and objected to any extension of credit on duties.

Mr. M'KIM replied—stated the guards of the bill, and denied that it granted the least extension of credit. The whole effect of the bill would be, to give twelve months longer for re-exportation, with benefit of drawback, and save to the merchant two per cent. of the duties paid on goods to be re-exported.

Mr. CAMBRELENG was pleased to find that the sentiment of gentlemen near him did not appear to accord with the sentiment of the House—and presuming from what had been said, that gentlemen were prepared, without further deliberation, to act upon the bill—he withdrew his motion to lay it upon the table, and then moved that it be engrossed, and read a third time on Monday next.

The bill was ordered, accordingly, to be engrossed and read a third time.

##### ILLINOIS CANAL.

Mr. COOK moved to take up the bill granting a certain quantity of land to the state of Illinois for the purpose of aiding in opening a canal to connect the waters of the river Illinois with those of Lake Michigan.

The motion was carried—ayes 65, noes 63.

The House accordingly went into committee of the whole, Mr. CONDICT in the chair, on that bill;

Which was amended by the insertion, at the end of the third section, of a proviso, that no titles to the lands granted should be valid against the United States until the canal should have been completed. A fourth section was added, which applies the residue of the proceeds of these lands, after the whole expense of the canal should have been defrayed, to the promotion of learning within the state of Illinois.

The same committee of the whole then, on motion of Mr. CALL, (the delegate from Florida) took up the bill granting certain lots of land to the corporations of St. Augustine and Pensacola. Mr. CALL having explained, at considerable length, the circumstances of the case to which this bill was intended to apply, and having defended the expediency of the bill on various grounds—

Mr. RANKIN, (Chairman of the Land Committee,) stated, very fully, his objections to the object and principle of the bill.

Mr. M'COY inquired whether there were not private claims to the lots proposed by the bill to be granted.

Mr. CALL explained.

Mr. SHARPE inquired as to the value of the lots.

Mr. CALL replied to this inquiry, and referred to Mr. SCOTT, of Missouri, for what had been done in that state.

Mr. SCOTT made a brief statement in reply.



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*Illinois Canal—Peale's Portrait of Washington.*

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When the committee rose, and reported both bills.

Further proceedings then took place on these bills, which ended in postponing one of them indefinitely, and ordering the other to lie on the table.

Mr. NEWTON then moved to take up the bill authorizing a subscription of stock in the Dismal Swamp Canal Company.

The motion was negatived.

Two messages from the President of the United States which had been received during the debate, were read, as follows:

*To the House of Representatives of the U. S.*

I invite the attention of Congress to the peculiar situation of this District, in regard to the exposure of its inhabitants, to contagious diseases from abroad, against which it is thought, that adequate provision should now be made. The exposure being common to the whole District, the regulation should apply to the whole; to make which, Congress alone possesses the adequate power. That the regulation should be made by Congress, is the more necessary, from the consideration, that this being the seat of Government, its protection against such diseases must form one of its principal objects.

JAMES MONROE.

Washington, Feb. 17, 1825.

*To the House of Representatives of the U. S.*

I transmit herewith to the House, a report from the Secretary of State, with copies of the correspondence with the Government of France, requested by the resolution of the House, of the 25th January last.

JAMES MONROE.

Washington, Feb. 17, 1825.

IN SENATE—FRIDAY, FEBRUARY 18, 1825.

Mr. KING, of New York, rose, and said, in offering the resolution he was about to submit, though it was a subject of great national importance, he did not desire to debate it, nor did he offer it with a view to the present consideration. He submitted it as a matter for the future consideration of the Senate, and hoped it would be received, by all parts of the House, as one entitled to its serious attention. He then laid on the table the following resolution:

*Resolved by the Senate of the United States of America,* That, as soon as the portion of the existing funded debt of the United States, for the payment of which the public land of the United States is pledged, shall have been paid off, then, and thenceforth, the whole of the public land of the United States, with the nett proceeds of all future sales thereof, shall constitute and form a fund, which is hereby appropriated, and the faith of the United States is pledged, that the said fund shall be inviolably applied to aid the emancipation of such slaves, within any of the United States, and to aid the removal of such slaves, and the removal of such free persons of color, in any of the said states, as by the laws of the states, respectively, may be allowed to be emancipated, or removed, to any territory or country without the limits of the United States of America.

The resolution was read, and on motion of Mr. BENTON, ordered to be printed.

Mr. EATON submitted the following resolution:

*Resolved,* That the Committee on the Judiciary, to whom the Judiciary Bill of the Senate has been referred, inquire into the expediency of dividing the United States into four divisions; each division to be arranged into three circuits, so that each circuit shall contain not less than one, nor more than three states; and to appoint—additional justices; that they inquire into the expediency of authorizing the judges, in their respective divisions, once in — years, to appoint one of their number, who, when appointed, shall, with the Chief Justice,

be, for the time being, Justices of the Supreme Court; providing, that this provision shall not take effect during the continuance in office of the present associate justices; and providing that, where the constitutionality of any state law shall be pending in the Supreme Court, on any question affecting the right of any state, that the Chief Justice shall certify the same to the President of the United States, who, thereupon, on proclamation, shall convene the whole number of Associate Justices, at Washington, to hear and determine the said cases.

A message was received from the President of the United States, (the same that was yesterday received by the House of Representatives,) respecting the prevention of the importation of contagious diseases into the District of Columbia.

The Senate took up the joint resolution directing the purchase and distribution of 630 copies, four volumes each, of Way and Gideon's edition of the Journals of the Congress of the Confederation.

This resolution gave rise to considerable debate, in which it was advocated by Messrs. TALBOT, and JOHNSON, of Kentucky; and it was opposed by Messrs. COBB, BENTON, and DICKERSON.

The question, finally, being taken on the third reading of the resolution, it was negatived by the following vote:

YEAS.—Messrs. Brown, Edwards, Findlay, Kelly, Knight, Lanman, Noble, Parrott, Ruggles, Seymour, Talbot, Van Buren, Johnson, of Ken.—13.

NAYS.—Messrs. Barbour, Barton, Benton, Boulogny, Chandler, Clayton, Cobb, D'Wolf, Dickerson, Elliott, Gaillard, Hayne, Holmes, of Miss. Holmes, of Me, Jackson, Johnston, of La. King, of Ala. King, of N. Y. Lowrie, M'Ilwaine, M'Lane, Macon, Mills, Smith, Taylor, Tazewell, Thomas, Van Dyke, Williams.—29.

The resolution was of course rejected.

The Senate next took up the bill making an appropriation of 6,000 dollars for the purchase of Mr. Rembrandt Peale's picture, (exhibited in the rotunda,) embracing an equestrian portrait of General Washington, and equestrian portraits of General Lafayette, General Hamilton, and other officers.

Mr. MILLS, chairman of the committee, stated to the Senate the reasons which induced the committee to report the bill. Its object was to make a suitable appropriation for the purchase and preservation of the most correct and perfect likeness of Washington, the man who was so dear to his country. The committee had taken great pains to ascertain the correctness of the resemblance, and they were satisfied not only of that, but that the whole work was executed with great taste and skill. This opinion was not founded on their own critical powers, but on the judgment of those who were most competent to form an opinion. If it were desirable for Congress to possess any work of this character, this was the one of all others most desirable. It was not merely a portrait of Washington—it combined incidents of an historical character—was commemorative of an event of the utmost interest and importance during the Revolutionary war. It shadowed forth the alliance which existed between our country and France, by the representation of General Lafayette. Mr. M repeated, that if it were desirable for Congress to possess any thing of this kind, no picture could be presented more worthy of the consideration of Congress. He explained the views of committee, in fixing the sum to be appropriated at \$6,000, and remarked that the committee were of opinion that this picture was not second to any of Colonel Trumbull's, in its scenes and execution, for each of whose paintings \$8,000 had been appropriated.

Mr. HOLMES, of Maine, said that he should be pleased to know what was an adequate compensation for the work in question. The sum you propose to give, is equal to the annual salary of your Secretary of State, superior to that of your Chief Justice of the Supreme

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*Purchase of Paintings.—On the Slave Trade.*

[Sen. &amp; H of R.]

Court. He asked whether this work was a year's labor? He thought that the rule adopted by the committee would not have much weight with the Senate, as, in his opinion, in the purchase of Trumbull's paintings, they had been abominably taken in. Those paintings, which cost \$32,000, were not worth 32 cents. Mr. H. said he did not pretend to be a critic in painting, but he would say, that Trumbull's last painting, commemorative of the resignation of General Washington, was a piece of the most solemn daubing he ever saw. The event it was intended to commemorate was one of the most sublime incidents that ever took place in the country. But what do you see in the picture? Why, a man looking like a little ensign, with a roll of paper in his hand, like an old newspaper, appearing as if he was saying, "Here, take it—I don't want to give it up." He concluded with moving to strike out 6000, and insert 4000.

Mr. MILLS replied, and entered into a further explanation of the views of the committee in reporting this sum. He thought it not proper for any gentleman to speak of Col. Trumbull's paintings as the gentleman from Maine had done; much less so to criticise a work performed by a gentleman who had borne a conspicuous part in the events of those days.

Mr. CHANDLER called for a division of the question; and the question was first taken on striking out 6000; which was carried in the affirmative.—Ayes, 20; Noes, 14.

Mr. TALBOT said a few words, when

Mr. HOLMES moved to fill the blank with 4000 dollars.

Mr. HAYNE moved 5000, and stated as a reason, that he was well satisfied that the artist would not take 4000 dollars.

The question on inserting 5000 was decided in the negative, by yeas and nays, as follows:

YEAS.—Messrs. Barbour, Benton, Bouigny, Cobb, Findlay, Gaillard, Hayne, Holmes, of Miss., Jackson, Johnson, of Ken. Johnston, of Lou., Kelly, Lowrie, Mills, Parrott, Seymour, Smith, Talbot, Van Buren.—20.

NAYS.—Messrs. Barton, Branch, Brown, Chandler, Clayton, D'Wolf, Dickerson, Edwards, Holmes, of Me., King, of Ala., King, of N. Y. Knight, Lannan, McIlvaine, McLean, Macon, Ruggles, Taylor, Tazewell, Thomas, Van Dyke, Williams.—22.

Mr. HOLMES, of Me. then moved to fill the blank with \$4,500, but, before the question on this sum was put,

The bill was, on motion of Mr. MILLS, ordered to be laid on the table.

The Senate then took up the bill extending to the companies of Mounted Rangers, commanded by Captains Boyle and M'Girth, the provisions of the act for the relief of the persons engaged in the Seminole campaign.

This bill gave rise to considerable discussion, in which Messrs. JOHNSON, of Ken. EATON, JACKSON, BENTON, and CHANDLER, took part; and, after making some amendments to the provisions of the bill, it was ordered to be engrossed for a third reading.

A motion to adjourn to Monday gave rise to some discussion; and, after modifying it, on motion of Mr. BENTON, so as to change the hour of meeting from 12 to 11 o'clock, the motion prevailed.—Ayes 22, Noes 19; and

The Senate adjourned to Monday.

#### HOUSE OF REPRESENTATIVES.—SAME DAY.

Mr. WAYNE, of Pennsylvania, submitted the following resolve:

*Resolved*, That 3000 copies of the report of the Committee on the Suppression of the African Slave Trade, which was laid upon the table the 16th inst. be printed.

Mr. FORSYTH called for the reading of the report

referred to in the resolution, but was answered that the report was at the printers.

Mr. WAYNE said, that the report was a very important one, embracing what had been done by our own Government in regard to the Slave Trade, and also all that had been done in foreign countries in regard to it.—There was a certain class of people who seldom investigate public affairs extensively, who would be extremely gratified to know that this Government has taken so deep an interest in this matter. He trusted that this indulgence would be allowed to them, by the printing of a sufficient number of copies to enable their Representatives to supply them with this information.

Mr. FORSYTH said, that this report concludes with no resolution, proposing no act on the part of this House; that it is a mere statement of opinion of a committee; that it looks to no resolution, and recommends nothing; that it looks at least to no step on the part of this House.

The proposed multiplication of copies was the less necessary, as it would doubtless be published in the newspapers. On this subject, Mr. F. said, he would remark, that there appeared to be a strange misconception, both in and out of the House, of the value of reports of committees. Those reports are nothing, until acted upon by the House, but the opinions of so many members of the House, who approve them. He recollected that, at this session, a correspondence had been laid before this House which had taken place between this Government and the British Government, in which an argument was founded on certain expressions in a report of a committee of this House. Now, for one, said Mr. F. as a member of this House, I protest against the opinion of a committee of this House being taken as an expression of the will of the House, unless first sanctioned by a vote of the House. There is scarcely any principle, however absurd, touching either our foreign or domestic relations, which may not be culled out of reports of committees made in one or the other House of Congress. It is a monstrous supposition, that the sentiments contained in a report of a committee are to have any influence on this Government, unless adopted by one or both Houses. Mr. F. understood this report to be exactly one of that description, which ought not to be considered, until acted upon, as expressing the sentiment of the House: that it was a report approving the conduct of this Government in a negotiation relative to the Slave Trade. I for one, as a member of this House, do not approve the conduct of the Government in regard to the negotiation. I believe the Senate acted right in refusing their assent to parts of that convention, and that the treaty ought not to have been negotiated. He hoped the House would not order this extra number of documents, lest it should be considered as an approbation of a report, with the contents of which, said he, none of us are well acquainted.

Mr. F. concluded his remarks, by moving to lay the resolution on the table.

Mr. MERCER said, that he should not have risen to address the House on this subject, but for the remarks of the honorable member from Georgia, on the negotiation between this Government and Great Britain, on the subject of the slave trade. That negotiation did not, said Mr. M. carry the almost unanimous resolution of this House as far as the object of the resolution required. It limited that search which the denunciation of the slave trade, as piracy, implied, as the means of detecting the pirate, and it limited the power of trying and punishing him, when taken, to particular tribunals.

The question was taken on ordering the resolution to lie on the table, and decided in the negative, 67 votes to 59.

Mr. CULPEPER said, that in ordering the report of the committee to be printed, he did not suppose that the

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House sanctioned whatever was contained in it. But, he said, he, with others, desired the report to be printed, to diffuse correct information among those who take an interest in this subject. He wished them to know what this Government has done in the matter; and, although they might not approve all that had been done, yet, when they saw what had been the exertions of the Government on this subject, they would see the matter in its proper light. He therefore hoped the printing would be agreed to.

Mr. FORSYTH said that the gentleman from Virginia had risen to correct a misstatement of fact, but he had not, in Mr. F.'s opinion, fulfilled his purpose. The gentleman had said, that the acts of the Executive in regard to the measures for suppressing the Slave Trade were not so full as the resolution on the subject which some sessions ago passed this House. I (said Mr. F.) think the acts of the Executive have been fuller than the resolution of this House. I think that, in the negotiations on the subject, the Executive has looked beyond the resolution, even to expressions in a report of a committee of this House on the subject, made at a preceding session, and not acted upon.

Mr. MERCER explained. He supposed, he said, that the gentleman from Georgia adverted to a cotemporary misconstruction of the resolution to which he referred, that had arisen from an application of the previous question to the debate which it had occasioned. It had been erroneously stated, that the House rejected an amendment proposed to the resolution by a gentleman from Maryland, no longer a member of this House. It was absurd, Mr. M. contended, to introduce the principle into the public law of nations—that the slave trade shall be deemed piratical, and yet to deny the consequential power of detecting, condemning, and punishing the pirates. Such was not the intention of the former Congress.

Mr. FULLER said he was in favor of printing the report, as contemplated by the resolution. The suppression of the slave trade had attracted great attention, and was, in fact an object of great interest to the country. He did not agree with the gentleman from Georgia, (Mr. FORSYTH,) that it ought not to be printed, because the committee had proposed no resolution, no legislative measure to grow out of it. His wish was, to make known to the nation the measures adopted by the Government, the course it had pursued for the purpose of putting an end to the slave trade. He thought the nation had a right to know what had been done. If the Government had discharged its duty, or if it had not done so, it was equally desirable that the facts should be known.

Besides, Mr. F. said, it was well known that our conduct on this subject, had attracted the attention of foreign nations, and it was incumbent on us to show that we had performed whatever we were able to perform, with sincerity and good faith. That we were neither hypocritical nor indifferent in our professions.

The objection that the report had proposed no legislative measure, had, in his, Mr. F.'s mind, no weight against the printing. The same objection might be made against printing the President's message at the opening of the session, and the accompanying documents; the report of the Secretary of the Treasury on our commerce, and many other documents which we were constantly in the habit of printing for the information of our constituents. As no resolution was offered by the report, it could not even be pretended that the House adopted the reasoning which it presented. He, therefore, hoped the resolution would prevail.

Mr. TEST said, he understood that the object of printing the report, as proposed, was, to let the people know the sense of this House on the subject of the measures for the suppression of the slave trade. At present, said he, we only know that such a report has been made

by a committee of the whole on the State of the Union. That committee would decide what to do with this report, and perhaps they might, after examination of it, think a diffusion of it among the people desirable. At present, he thought the motion for printing it premature.

The question was then taken on the motion for printing extra copies, and decided in the affirmative, 73 votes to 57.

#### CANAL BOATS, &c.

Mr. NEWTON moved to discharge the committee of the whole from the consideration of the bill concerning canal vessels and boats. The motion was carried, ayes 72. The bill was then taken up and read.

Mr. NEWTON, (Chairman of the Committee on Commerce,) stated the circumstances which had led to the introduction of the bill, and explained its provisions at considerable length.

Mr. STORRS, of New York, objected to the bill on constitutional grounds, because it speaks of the remission of the tonnage duty on canal boats, as a thing granted by Congress, whereas, he held that Congress had no right to impose such a duty on boats navigating a canal lying wholly within the limits of a single state; and he moved the following amendment, viz:

To strike out the first section, after the enacting words, and substitute the following:

"That the several acts regulating the commerce of the United States, and imposing duties on tonnage, and the acts supplementary and amendatory of the same, shall not be construed to extend to boats employed exclusively in navigating the canals within the respective states."

Mr. NEWTON spoke in reply to Mr. STORRS, and in defence of the bill as reported, contending that Congress possessed the right in its fullest extent, but were willing to waive it in the present instance, provided, that suitable guards were introduced to prevent smuggling.

Mr. STORRS again rose and spoke at some length in support of his former proposition.

Mr. TOMLINSON, of Connecticut, supported the principles of the bill, in a speech of considerable interest and length.

Mr. CAMBRELENG maintained there was but little substantial difference between the original provision and the amendment. He did not think the constitutional principle was involved by either, but rather preferred the amendment to the bill.

Mr. WEBSTER made some observations on the bill. He did not consider it as involving any dangerous principle.

Mr. P. P. BARBOUR coincided with Mr. STORRS in his constitutional objection, maintaining that the amendment, though it reached the same end as the bill, was widely different, inasmuch as it involved in it no claim on the part of Congress to impose the duty on canal boats, but was merely declaratory in its form, &c.

Mr. OWEN, of Alabama, moved to lay the bill and amendment on the table; but the motion was negatived.

Mr. M'LANE suggested to Mr. STORRS the propriety of omitting that clause of his amendment which extends the exemption, not only to boats navigating the canal, itself, but, also, the artificial works connected therewith. One of these works was a basin in Lake Erie, and the words of the amendment would exclude all the navigation of Lake Erie which entered that basin, from tonnage duty.

Mr. STORRS accepted the modification proposed by Mr. M'LANE.

Mr. FOOT, of Connecticut, and Mr. MARVIN of New York, opposed this amendment, as thus modified, which rendered the bill itself nugatory; for all the boats on the

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canal entered the basins at its extremities, and so they would all have to pay tonnage duty.

Mr. MARTINDALE took the same ground, and denied that the revenue would be injured by extending the exemption to certain parts of Lake Erie and Lake Champlain.

The question was then taken on Mr. STORRS' amendment, and decided in the affirmative—ayes 37, noes 55.

The bill was then ordered to be engrossed for a third reading.

### ILLINOIS CANAL.

The motion made yesterday, by Mr. BUCKNER, to reconsider the vote rejecting the bill for the Illinois canal, was taken up.

Mr. RANKIN renewed his opposition to the bill, and went into a calculation to shew that the lands granted would not only defray all the expenses of the canal, but would leave a balance in the Treasury of the state of Illinois, from half a million to a million of dollars.

Mr. COOK renewed his argument in favor of the bill, contended that the calculations made by the Chairman of the Committee on the Public Lands, so far from operating against the bill, was the strongest of all considerations in its favor, since they rested wholly on the value which would be given to the lands by the canal itself. He expatiated at considerable length on the advantages promised by the design.

Mr. MCCOY denied that Illinois had any greater right to a portion of the public lands than Virginia, or any other state. The lands, when ceded, were to be set apart to pay the public debts, but Congress seemed to have forgotten that stipulation, and the lands, it seems, were to be given to any person who lived nearest to them. Would it not be best to sell the whole at once, and divide the proceeds?

The question on reconsidering was then put, and negatived.

### HOUSE OF REPRESENTATIVES.—FEB. 19, 1825.

An engrossed bill, entitled "An act concerning Canal vessels and boats," was read a third time.

Mr. MARTINDALE, of New York, moved that the bill be recommitted, for the purpose of being modified. In its present form, he contended, it granted none of that relief for which it had been introduced into the House, but, on the contrary, it imposed additional burthens. In support of this proposition, Mr. M. went, at considerable length, into a statement of facts, especially as related to the boats on the Champlain Canal.

Mr. STORRS replied to his objections, and insisted that the clause of the bill from which it was apprehended that new burthens would be laid on the Canal boats, did not justify that apprehension.

Mr. WEBSTER believed both the bill and the amendment to be unnecessary, as the laws laying tonnage duties did not now apply to Canal boats, and could not be enforced with respect to them.

Mr. MALLARY was in favor of the bill, but opposed to the amendment, which he considered as defeating its object.

Mr. MARTINDALE insisted on the danger to which these boats would be exposed—of having tonnage duties exacted from their owners, unless some law was passed to prevent it. These duties had already, in some cases, been both demanded and paid.

Mr. McLANE preferred the bill to the amendment. He thought the apprehensions which had been expressed were without solid foundation. No duties could be demanded on a boat, till the boat passed from one district into another, and the bill provided for that case.

Mr. NEWTON repeated and enforced the objections he had yesterday brought forward against the amend-

ment, and insisted that Congress ought to retain its power to lay duties on Canal boats, whenever circumstances might render it proper. The question on recommitment was then put, and negatived.

Mr. WEBSTER opposed the amendment as too broad and extensive in its terms.

Mr. FOOT, of Connecticut, was in favor of the object of the bill, but opposed to the amendment as too narrow in some respects, and too wide in others.

Mr. MARTINDALE expressed his reluctant determination to vote against the bill, if the amendment were retained; when

Mr. WEBSTER, in order to give time for further reflection, and some interchange of views, which might lead to a modification of the bill, more acceptable to all parties, moved that it lie on the table. The motion prevailed, and the bill was ordered to lie on the table.

### CLAIMS OF STATES FOR INTEREST, &c.

On motion of Mr. WEBSTER, the House then went into committee of the whole, (Mr. CONNICK in the chair) on the bill for the relief of Elisha Snow, Jr. and the bill to authorize the payment of interest due to the state of Virginia.

The former of these bills was read by sections, and ordered, without debate, to a third reading on Monday.

The latter bill gave rise to an animated and interesting debate, which occupied the House till past 4 o'clock.

The debate turned chiefly on an amendment offered by Mr. SHARPE, of New York, which went to strike out the words "*state of Virginia*," and to insert, in lieu thereof, "*the several states*," making the provisions of the bill to extend, without distinction, to all the states who had borrowed money for the service of the United States, and paid interest thereon, and whose demand for the principal of their debt had been recognised and paid by the General Government. This amendment was advocated by MESSRS. SHARPE, MERCER, P. P. BARBOUR, STEVENSON, KENT, NEALE, WOOD, WEBSTER, MARVIN, FULLER, MALLORY, COOK, and LIVINGSTON; and opposed by MESSRS. WILLIAMS, of N. C. WHITLSEY, MCCOY, FLOYD, FOOT, of CON. TUCKER, WARFIELD, WILDE, BARTLETT, and CLAY.

The question was then put on Mr. SHARPE'S amendment, and decided in the negative, ayes 49, noes 96.

The bill was then read throughout by sections and reported to the House.

Mr. SHARPE now renewed his motion to amend the bill, and required that, when the question was taken, it should be taken by yeas and nays, which were ordered accordingly.

But, before the question was taken, the House adjourned.

### IN SENATE—MONDAY, FEBRUARY 21, 1825.

The PRESIDENT communicated a letter from J. I. McDonald, one of the Delegates from the Chocaw nation of Indians, with an address from that Delegation on the subject of the present condition of that tribe; which, on motion of Mr. WILLIAMS, was ordered to lie on the table.

Mr. TALBOT, from the Committee on the Judiciary, to whom was referred the bill "to extend the Judicial System of the United States, and to provide for three additional Circuit Courts," reported it with amendments.

On motion of Mr. SMITH, the Senate then proceeded, as in committee of the whole, (Mr. MILLS in the chair,) to the consideration of the bill from the other House, "making an appropriation for certain fortifications in the United States for 1825."

The amendments reported by the Committee on Finance were read.

The first proposed an appropriation of 30,000 dollars, for the erection of a Fort at Beaufort, in North Carolina,

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and 50,000 dollars for Forts at Cape Fear, in the same state.

A long discussion ensued on this amendment, which was supported by Messrs. SMITH, MACON, BRANCH, COBB, HAYNE, and JOHNSTON, of Lou. on the ground of right and necessity, and the pledge that had been given that the system of fortification, heretofore adopted, should be continued impartially. The appropriation was opposed by Messrs. DICKERSON, LOWRIE, HOLMES, of Me. and CHANDLER, who argued that there was no necessity for fortifying the two points in question; that the Secretary of War was opposed to it, at present, as there was no Engineer at the disposal of the Government, for the purpose, at this time.

Mr. SMITH, in stating the reasons which induced the committee to propose this amendment, called for the reading of the following letter from the War Department:—

"DEPARTMENT OF WAR, Jan. 21, 1825.

SIR: I have the honor to acknowledge the receipt of your note of yesterday's date, calling the attention of the Department to the fortifications intended to be erected at Beaufort and Wilmington, in North Carolina, and requesting that estimates may be laid before Congress for the same, in such manner as may be deemed expedient.

At the time the General Estimate was sent in to the proper Department, to be laid before Congress at the opening of the session, the plans and estimates of the fortifications for the defence of Beaufort and Cape Fear river, had not been completed by the Board of Engineers, and could not, of course, be comprehended in that estimate. They have, however, been since received, and the cost of the work for the defence of Beaufort is estimated at \$175,000, and those for Cape Fear at \$251,000, as will appear more in detail in the accompanying report of the Chief Engineer, to which I beg leave to refer you.

It is now too late for this Department to bring the estimates for these works before Congress for appropriation, as the bill founded on the estimates according to the operations projected for the year is already reported to Congress, by the Committee of Ways and Means of the House of Representatives. Should you, however, think proper to bring forward the subject of appropriations for those works, not less than \$30,000 ought to be made for the former, and \$50,000 for the latter.

It is proper to remark, that there is not at this time a disposable officer in the Corps of Engineers, every one being engaged in some work; and until some one of the fortifications now erecting shall be completed, no officer can, without great injury to the service, be withdrawn from present duties.

I have the honor to be, sir,

With great respect,

Your obedient servant,

J. C. CALHOUN.

The Hon. N. MACON, of the Senate.

The question being taken on the amendment it was determined in the affirmative, by Yeas and Nays, as follows:

YEAS—Messrs. Barbour, Barton, Banton, Bouigny, Branch, Brown, Cobb, Elliott, Hayne, Jackson, Johnson, of Ken., Johnston, of Lou., King, of Ala. King, of N. Y. Knight, Lloyd, of Mass. McLean, Macon, Mills, Noble, Palmer, Parrott, Reggles, Smith, Taylor, Tazewell, Thomas, Van Buren, Williams.—29.

NAYS—Messrs. Bell, Chandler, Clayton, D'Wolf, Dickerson, Edwards, Findlay, Holmes, of Maine, Lannan, Lowrie, Seymour.—11.

The other amendment was, to insert at the end of the clause making provision for the preservation of the islands in Boston Harbor, these words—"Provided, That the right of soil of said islands shall be first vested in the United States."

The following letter, from the Secretary of War, was read:

WAR DEPARTMENT, 14th Jan. 1825.

SIR: I have the honor to lay before the Committee of Ways and Means a copy of a letter from the Hon. Mr. Webster, of Massachusetts, addressed to this Department, and of letters from General H. A. S. Dearborn, Collector of the port of Boston, Commodore Bainbridge, of the Navy, and from the President and Trustees of the Marine Society of Boston, which accompanied the communication of Mr. Webster, all representing, that George's Island and Nantasket Head, in the harbor of Boston, have been constantly diminishing, and are in great danger of being entirely swept away by the violence of the sea, if not immediately secured, and thus depriving that harbor of two important sites for fortifications, and of the natural protection which those positions have heretofore afforded to the shipping which anchor in Nantasket Roads. I also lay before the committee the report of the Chief Engineer on the subject, with the estimates of the cost of the sea walls which have been projected for the security of the two positions, viz: For the sea wall on George's Island, \$25,083 64 cts. For that on Nantasket Head, \$27,888 91 cts.; amounting, for both, to \$52,972 56 cts.; and respectfully recommend that an appropriation to that amount may be made for the purpose of erecting the sea walls contemplated, for the preservation of the abovenamed sites.

I am, sir, with great respect,

Your most obedient servant,

J. C. CALHOUN.

To the Hon. LOUIS McLANE,

Chairman of the Committee of Ways and Means, House of Representatives.

On this amendment, Messrs. LLOYD, of Massachusetts, and SMITH, made some remarks, when the question was taken on it, and decided in the affirmative.

The last amendment was, "For a school of practice for light artillery, at Fortress Monroe, \$9,940."

The following letter, from the Secretary of War, was read:

DEPARTMENT OF WAR, Feb. 1, 1825.

SIR: I have, at your request, examined the estimate for the School of Practice, and reduced the same to the lowest sum, on the supposition that horses are to be furnished to the Light Artillery drill only, and not for the Cavalry; and that instruction in the ordnance duty, as far as the services immediately connected with the Artillery, be given. By adverting to the estimate, you will perceive that the whole sum required amounts to \$9,940: and after the first appropriation, but a small sum will be required for the annual current expenditure.

In addition to the views presented in the President's Message, at the opening of the present session of Congress, and the report of this Department accompanying the same, in favor of the establishment of the School, I would suggest, that, there is no means of instructing, at present, in the manœuvres and exercise of the Light Artillery duty. Unless some measure should be taken to remedy the defect, the officers of the artillery corps will be wholly uninstructed in this important branch of service. Notwithstanding the provision of the act of Congress of the 2d March, 1821, which directs, that, one of the companies of each regiment of artillery "shall be designated and equipped as light artillery;" but to carry which into effect, no provision has as yet been made by law. The means proposed is believed to be the cheapest and most effective to carry into effect the important object of the act, that of giving to the officers of the artillery sufficient instruction in the duties of one of the most important branches of the corps.

Instruction in such portion of the ordnance duty as is connected with artillery, is deemed not less important. No officer of the corps can be considered as completely



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instructed in his duty, while he remains practically ignorant of those branches of the ordnance service, which, in the actual operations of war, are daily necessary in conducting the service of artillery. The mode proposed of instructing them at Old Point Comfort, is the only one, and will be both economical and effective.

I have the honor to be,

Your obedient servant,

J. C. CALHOUN.

Hon. J. HAMILTON, JR.

Chairman of the Military Committee,  
House of Representatives.

Estimate for carrying into operation the Artillery School for instruction, at Fortress Monroe, for the year 1825 :

For the purchase of fifty artillery draft horses, at \$100,	\$5,000 00
For materials for erecting stables and forage house for fifty horses,	1,500 00
For hire of mechanics,	1,000 00
	<hr/> \$7,500 00
For building forges with bellows, and converting casemates into workshops,	740 00
For extra pay to soldiers employed as artificers,	500 00
For wages of a master carriage-maker, and a master blacksmith, each \$600,	1,200 00
	<hr/> \$9,940 00

*Department of War, Feb. 1st, 1825.*

The amendment was agreed to, and the bill was then ordered to be read a third time, as amended.

On motion of Mr. SMITH, the Senate then proceeded, as in committee of the whole, to the consideration of the bill from the other House, making further appropriations for the military service of the United States for the year 1825.

The amendments proposed by the Committee of Finance, were unanimously agreed to.

Mr. COBB then moved to strike out the following clause in the bill :

"For payment of the amount of the annuity due to the Cherokee nation, under the treaty of the 24th of October, 1804," which was ratified during the last session of Congress, and for which no payment or appropriation has heretofore been made, \$20,000."

Mr. COBB stated his reasons at considerable length for making this motion, which were answered by Messrs. BENTON and SMITH; and the motion was finally negatived.

The bill, as amended, was then passed to a third reading.

The Senate then proceeded, as in committee of the whole, to consider the bills for the relief of two companies of mounted rangers commanded by Captains Boyle and McGirth; which, after some discussion between Messrs. COBB and JACKSON, was passed, and sent to the House for concurrence.

The Senate then adjourned till 11 o'clock to-morrow.

#### HOUSE OF REPRESENTATIVES.—SAME DAY.

##### LAW OF DRAWBACKS.

An engrossed bill to extend the right of deposit in public or other store houses, on certain conditions, and with certain privileges to other goods, besides wines, teas, and distilled spirits, was read a third time. And the question being "Shall it pass?"

Mr. WRIGHT, of Ohio, opposed the bill, as calculated to alter materially the system of imposts now existing, and he moved it lay on the table, but withdrew it for a moment to accommodate

Mr. McKIM, of Md. who spoke in reply, and explained

the provisions of the bill; it had been drawn under the immediate eye of the Comptroller of the Treasury, and could not be expected to have the sanction of that Department, if it injured the present system of duties. It was bad policy to tax goods which only touched at this country on their way to another, and were not to be consumed here.

Mr. WRIGHT again spoke in opposition to the bill; if it went the whole length of the British warehousing system, he would advocate it; but this would require an abolition of all credits at the custom-house. He renewed his motion to lay the bill on the table.

Mr. LIVINGSTON, of Louisiana, said that the bill was one which deserved serious consideration, because it made an important change in the fiscal operations on our commerce; that he had at first doubted whether sufficient precaution had been taken in drafting it, but that not seeing any very important omission, and having been informed that its details had been considered by the Treasury Department, and had received the sanction of the Committee of Ways and Means, he was prepared to give it his support.

As the law on the subject now stands, all duties on importation must be paid in cash, or secured to be paid by instalments at different periods, from three to twelve months; and a deposit of goods may be made instead of personal security, to insure the payments. Teas, and some other articles, form a modified exception to these regulations, which will be presently noticed. But as all duties are considered as taxes on consumption only, the law had justly, as well as wisely, provided, that if within a reasonable time merchandise on which a duty had been paid, should be re-exported, the duties, with a certain deduction, should be refunded. This was just, because otherwise the tax, instead of falling on the consumer, would rest on the importing merchant, who, on re-exporting the merchandise, must do it with the load of the duty he had paid. It was wise, because a contrary conduct would banish all the transit trade from our harbors, confine our importations strictly to the amount of our consumption, and force our merchants, whenever they carried the produce of one foreign nation, to the ports of another, to go abroad to make up their cargoes. The drawback system had been found in practice to realize all the advantages which the theory of its establishment seemed to warrant: it had greatly increased our carrying trade, given scope to the enterprise of our merchants, enabled them, by assorting their cargoes at home, to compete, in foreign markets, with the merchants of the countries from which each of the articles composing such cargoes were brought, and if freed from some inconveniences and unjust burthens, would enrich them and their country, in a degree commensurate with the greater facilities and freedom that would then be offered. The present bill was intended to effect this by providing,

1st, That duties on all goods imported may, at the option of the importer, either be paid, or secured in the manner now directed by law, or that they may be warehoused at the expense of the party, and that the duties need not, in that case, be paid until the expiration of two years, unless they are sooner sold for consumption. And that at any time within the two years, they may be re-exported, without any other payment to the Government than the half of one per cent. to pay the expense of entries and other documents.

The advantages to the importing merchant by this arrangement, are principally, that, being exonerated from the necessity of finding security for the duties before he knows whether he shall find a market for his goods, he will be enabled to extend his importations, and to keep always a large quantity of the article in which he deals on hand, ready to meet the demand for domestic consumption, or for foreign trade. To the exporting merchant, (whether the same individual or not,) it will give

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On Drawback Duties.

[FEB. 21, 1825.]

the great advantage of finding, in consequence of this increased importation, the means in a moment of assorting his cargoes for any market; an advantage which, in the present state of our commerce, and its highly flattering prospects of extension, ought not to be overlooked. The markets of Mexico, and of the whole Southern Continent, are now open to our commercial enterprise. That commerce, more than any other, requires assorted cargoes. More than any other, it requires promptitude in collecting, and despatch in forwarding them to their destination, to avail ourselves of those variations of glut and demand to which, more than any other, those markets are subject, excepting only, perhaps, those of the West Indies, to which this reasoning will equally apply. This arrangement will aid, in an incalculable degree, the advantages derived from our local position for carrying on that commerce. Their vicinity gives us an immediate knowledge of their wants, and cargoes of the most complex kind are formed, and in the market, before the European merchant can have heard of the demand. It is true, that our present drawback system operate, in some degree, this effect: the advantages of a return of the great proportion of duties, is one that does not seem to have been appreciated in other countries, and particularly in the commercial countries of Great Britain and Holland, in the degree its importance merits. In England, the allowance of drawback on re-exportation, was never general. In the cases where it is allowed, more than one half of the duty sometimes is retained, and in some cases more. For instance, in Great Britain, on steel there is a duty of 50 per cent. and no drawback; on brandy a duty of 17s. sterling, and no drawback; on some species of linens the duty is 6s. 4d. per piece, and the drawback only 2s. 8d. In the kingdom of the Netherlands, the transit and export duty are sometimes 50 per cent. higher than that paid on the import; but, although this varies with regard to many articles, on none is the part retained so little as that directed by our law. But although these regulations yet remain in Great Britain, they now operate no hardship, because, becoming sensible of the error of her restrictive system, of which this formed a part, in the year 1803, she adopted the plan of permitting foreign goods to be warehoused and re-exported free from duty. This was enlarged in the year 1823, and extends now to all foreign goods, except tea, and other Chinese goods, gun-powder, and other munitions of war, linens, beef, pork, fish, and some other articles, which were excepted, to favor, if not the interest, at least the prejudices of some classes of traders and manufacturers. So that under the present regulations there, every merchant who intends to re-export, will warehouse, instead of entering his goods. This bill proposes the same system, and it is not presumed that it will be attended with any peculiar disadvantages; indeed, it is now, with respect to certain articles, in operation, and has been so since the commencement of our fiscal system. Teas and wines may now be warehoused, and no duty need be paid on them unless they are entered for consumption; and if any frauds have been practised in consequence of this indulgence, it cannot have been to a great amount, or this extension of the system would not have received the approbation of the Treasury. On the contrary, under the debenture law, Mr. L. said he had understood that frauds had been practised to a great amount, particularly in the article of brandies. The casks which contained this liquor on its importation, being re-exported filled with domestic spirits of a very inferior quality. It is said, that in one of our great cities alone, thirty or forty empty casks of this description, accompanied by the certificates of importation, are daily sold to the distillers; if this quantity should be exported, and the drawback obtained, the loss to the revenue could not be less than 300,000 dollars per annum. This could not take place if they were warehoused. Besides, sir, said Mr. L. the policy of our Government has lately been by high duties

to deprive the importing merchant of the supply of the home market; and, without questioning the wisdom of this preference shown to our domestic trade, it may at least be considered as giving the merchant some title to indemnity, by enabling him to enter the foreign market to advantage. At present you oblige him to find security for the payment of duties on goods not intended for consumption; when he exports them, you tax him  $\frac{3}{4}$  per cent. on the amount of their duties; you deprive him of the facility of making up an assorted cargo, and thereby nearly destroy the advantages he could derive from his vicinity to the best market in the world for cargoes of that description, and you take away from the country the great profits to be derived from the deposit; and in the same degree that you injure your own trade in these respects, you favor that of foreigners.

The amount of the two and a half per cent. retained on the debentures for the last year, amounted to 126,359 dollars. This was a tax laid on the export trade, and if not in terms, was in effect a contravention of the constitutional provision that prevented such tax, and it operated to that amount to the benefit of foreigners who carried the foreign article to market without entering the United States. Mr. LIVINGSTON regretted that this measure had been delayed to so late a day, because gentlemen who might otherwise have been in favor of it, had not time to examine whether sufficient precautions were taken in the introduction of a new system, to avoid frauds on the revenue; for his part, however, since he had been assured that it had passed the scrutiny of the able and attentive committee of this House, within whose department it came, he should give it his support.

Mr. TRIMBLE, of Kentucky, opposed the passage of the bill, especially on the ground of the loss to the  $\frac{3}{4}$  per cent. fund. The object of this  $\frac{3}{4}$  per cent. as retained by the Government, was to pay the expense of the system; this fell equally on the importer and consumer; but the expense of the warehouse system, under this bill, doubled the burden on the importer, and wholly relieved the exporter. But the principal objection was, that the importer only gave his own bond, and held one of two keys of a private warehouse, while the collector held the other—he might easily withdraw the goods and go off himself, and leave the Government in the lurch. The bill went chiefly to benefit foreigners—for they constituted a large majority of the importing merchants in our sea ports. He believed the country lost a large amount, annually, as it was—and this would go to increase the amount.

Mr. CAMBRELENG replied—contended that  $\frac{3}{4}$  per cent. was much more than sufficient for the expense of goods *in transitu*, and operated as an impolitic tax on the transit trade. He denied the danger of frauds—and his only objection to the bill was, that it did not go far enough. He stated the objects of the bill, and contended for their expediency.

Mr. BUCHANAN, of Pennsylvania, professed himself in favor of the bill, as having a favorable influence on the trade of this country, especially to South America—it enabled the merchant to go into that market two per cent. cheaper than at present, and argued the policy of securing that trade as speedily as possible. He replied to Mr. TRIMBLE, and concluded that no law, proper in itself, should be objected to, because it happened to benefit foreigners. He thought the bill would have a beneficial effect on the manufacturing interest.

Mr. SHARPE, of N. Y. stated the present course of commerce, and insisted on the advantages of the bill—but gave way at the request of

Mr. P. P. BARBOUR, who moved, on account of the lateness of the hour, and with a view to enter on the appointment of Printer to the House, that the bill be, for the present, laid on the table, and the unfinished business of Saturday be postponed, to proceed to the ballot of that appointment.

The motion prevailed.

FEB. 22, 1825.]

Massachusetts Claims—Purchase of Paintings.

[Senate.]

IN SENATE—TUESDAY, FEBRUARY 22, 1825.

The Senate proceeded, as in committee of the whole, to consider the bill "supplementary to an act, entitled 'An act enabling the claimants to lands within the limits of the state of Missouri, and territory of Arkansas, to institute proceedings to try the validity of their claims,'" approved the 26th of May, 1824, and to repeal a part thereof."

Mr. EATON moved further to amend the bill, by adding, "within the territory of Arkansas," so that the 1st section would read as follows:

"That in all cases within the territory of Arkansas, where a title is set up under any French or Spanish grant, concession, warrant, or order of survey, or shall, in any manner, be derived from them, and the quantity of acres contained in the original grant, concession, warrant, or order of survey, shall exceed one league square, then, and in that case, should the decision of the court be against the United States, it shall, and hereby is declared to be the duty of the District Attorney to take and prosecute an appeal to the Supreme Court of the United States; and to make out and forward to the Attorney General a brief of the points and arguments relied upon on the trial; and it shall be the duty of the Attorney General to attend to said appeals, in behalf of the United States, when brought into the Supreme Court."

This amendment was agreed to.

Mr. LOWRIE moved then to strike out the 1st section of the bill, which repealed the 15th section of the original act.

A long debate ensued, in which Messrs. LOWRIE, EATON, BENTON, SMITH, BARTON, KELLY, HOLMES, of Maine, and VAN BUREN, took part, and it was finally decided in the negative by yeas and nays, as follows:

YEAS.—Messrs. Bell, Chandler, Clayton, Cobb, D'Wolf, Dickerson, Edwards, Findlay, King, of N. Y. Lanman, Lloyd, of Mass. Lowrie, McIlvaine, Macon, Palmer, Parrott, Seymour, Smith, Van Buren—19.

NAYS.—Messrs. Barton, Benton, Boulogny, Brown, Eaton, Elliott, Hayne, Holmes, of Miss. Jackson, Johnson, of Ken. Johnston, of Louisiana, Kelly, King, of Alab., McLean, Mills, Noble, Ruggles, Thomas, Williams—19.

On the question shall this bill be engrossed for a third reading? it was decided by yeas and nays, as follows:

YEAS.—Messrs. Barton, Benton, Boulogny, Brown, Eaton, Elliott, Hayne, Holmes, of Miss. Jackson, Johnson, of Ky. Johnston, of Lou. Kelly, King, of Alabama, McLean, Mills, Noble, Ruggles, Taylor, Thomas, Williams—20.

NAYS.—Messrs. Bell, Branch, Chandler, Clayton, Cobb, D'Wolf, Dickerson, Edwards, Findlay, Holmes, of Maine, King, of New York, Lanman, Lloyd, of Mass. Lowrie, McIlvaine, Macon, Palmer, Parrott, Seymour, Smith, Tazewell, Van Buren—22.

So the bill was rejected.

The following message was received from the President of the United States:

*To the Senate and House of Representatives  
of the United States:*

I transmit, herewith, a report from the Secretary of War, with a report to him from the Third Auditor, of the settlement, in the amount stated, of the claims of the state of Massachusetts, for services rendered by the militia of that state, in the late war, the payment of which has hitherto been prevented by causes which are well known to Congress. Having communicated my sentiments on this subject fully, in a message bearing date on the 23d of February, 1824, it is unnecessary to repeat in detail here, what I there advanced.

By recurring to that message, and to the documents

referred to in it, it will be seen that the conduct of the Executive of that state, in refusing to place the militia thereof, at that difficult conjuncture, under the direction of the Executive of the United States, as it was bound to do, by a fair construction of the Constitution, and as the other states did, is the great cause to which the difficulty adverted to, is to be ascribed. It will also be seen, on a view of those documents, that the Executive of the state was warned at the time, if it persisted in the refusal, that the consequences which have followed would be inevitable: that the attitude assumed by the state formed a case which was not contemplated by the existing laws of the United States relating to militia services: that the payment of the claims of the state, for such services, could be provided for by Congress only, and by a special law for the purpose. Having made this communication, while acting in the Department of War, to the Governor of Massachusetts, with the sanction and under the direction of my enlightened and virtuous predecessor, it would be improper, in any view which may be taken of the subject, for me to change the ground then assumed, to withdraw this great question from the consideration of Congress, and to act on it myself.

Had the Executive been in error, it is entitled to censure, making a just allowance for the motive which guided it. If its conduct was correct, the ground then assumed ought to be maintained by it. It belongs to Congress alone to terminate this distressing incident, on just principles, with a view to the highest interests of our Union.

From the view which I have taken of the subject, I am confirmed in the opinion that Congress should now decide on the claim, and allow to the state such portions thereof as are founded on the principles laid down in the former message. If those principles are correct, as on great consideration I am satisfied they are, it appears to me to be just in itself, and of high importance, that the sums which may be due, in conformity therewith, should no longer be withheld from the state.

JAMES MONROE.

Feb. 21, 1825.

The Senate, as in committee of the whole, resumed the consideration of the bill authorizing the purchase of the Equestrian Portrait of Washington, by Rembrandt Peale.

Mr. HOLMES, of Maine, moved to amend the bill by filling the blank with \$4,500; which was decided in the affirmative—ayes 20, noes 14.

Mr. NOBLE then rose and said he would ask the Senate to pardon him for a few moments, and he would give the reasons why he could not vote for the bill. The bill proposes four thousand five hundred dollars for the object. Mr. N. asked what was the object of legislation; and gave the answer, that it was for the benefit of the whole nation. The purchasing of the portrait would be extravagant, and but of little use to the people of the United States, remote from the Capitol. It would serve, however, for members of Congress to examine, and those who had business at Washington, to the exclusion of all others, as to its efficacy; but the purse strings of the people must be untied, to pay off the appropriation, and at the same time they derive no advantage.

The name of Washington, Mr. N. said, was as dear to him in his military character, and his civil, as to any other American. He appreciated his character, his worth as a statesman, his religious and moral principles; and believed that no man was ever his equal in the United States, and he feared never would be again. If you take from the people this sum of money, the benefit should accrue to them at large, and not to members of Congress, and those whose business brings them to the city. We have his portrait, and why ask another?—Washington is dead—but his name will forever live with

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the people of the United States, and not because this Senate is about to add another portrait to be fixed in the rotundo of the Capitol.

The object of this bill certainly ought to be the commemoration and perpetuation of the venerable Washington, for the benefit of the present age and generations to come after us, and to make lasting impressions from his examples and precepts, upon the present and future age. Can this be done by another portrait in the rotundo?—If the honorable member from Massachusetts (Mr. MILLS) and from the Select Committee, who reported the bill, will change it and appropriate the four thousand five hundred dollars, under the superintendence of some skillful man, to collect and cause to be digested, and printed, the acts of Washington, both military and civil, he would vote for it, upon the condition that, as the money is taken from the people, they should derive the advantage.

Mr. NOBLE said, early impressions were lasting, and he would discriminate between rich and poor; and when the work was completed and printed, he would distribute them among the latter: the former could buy for themselves, and he would extend them to the cottages in the pine hills in North Carolina, to the Western forests, and every portion of this Union. Parents could then read and make early impressions upon their children of the political, moral, and religious worth, of Washington, which never can be done by fixing up pictures and portraits in the Capitol.

On the question, "Shall this bill be engrossed for a third reading?" it was decided in the affirmative, by Yeas and Nays, as follows:

YEAS. Messrs. Barton, Benton, Clayton, Eaton, Elliott, Findlay, Hayne, Holmes, of Maine, Holmes, of Mississippi, Jackson, Johnson, of Kentucky, Johnston, of Louisiana, Kelly, Lloyd, of Massachusetts, Lowrie, Mills, Parrott, Ruggles, Seymour, Smith, Van Buren—21.

NAYS.—Messrs. Bell, Boulogny, Branch, Chandler, Cobb, D'Wolf, Dickerson, Edwards, King, of Alabama, King, of New York, Lanman, Millvaine, M'Lean, Macon, Noble, Palmer, Taylor, Tazewell, Thomas, Williams—20.

#### INDIAN TRIBES.

On motion of Mr. BENTON, the Senate resumed, as in committee of the whole, the bill for the preservation and civilization of the Indian tribes within the United States.

Mr. ELLIOTT, of Georgia, rose, and, as a member of the Committee on Indian Affairs, asked the attention of the Senate to a few remarks which he proposed to make, in explanation and support of the objects of this bill. The measures proposed in this bill, said Mr. E. have, for their object, the preservation of the Indian tribes within the United States, and the improvement of their condition; as well as the advancement of the wealth and power of the Union. The attainment of objects so interesting both to the philanthropist and the statesman, justified a special message from the President of the United States, and can hardly fail to secure the grave attention of this body. So long as the Indian tribes within our settlements were strong enough to wage war upon the states, and to pursue their trade of blood with the tomahawk and scalping knife, it was neither the policy nor the duty of the Federal Government to consult their comfort, or to devise means for their preservation. The contest, then, was for the existence of our infant settlements, and for the attainment of that power by which a civilized and Christian people might safely occupy this promised land of civil and religious liberty. It was then to be regarded as a struggle for *supremacy*, between savages and civilized men, between infidels and Christians. But now, sir, when, by successive wars, and the more fatal operation of other causes, hereafter to be noticed, their power has departed from them, and they are reduced to comparative insignificance, it well becomes the magnanimity of a humane and generous

Government, to seek out the causes of their continued deterioration, and, as far as practicable, to arrest its progress, by the application of the most appropriate remedies. To any one who has carefully attended to the history of the tribes within the old states, it must be apparent, that their uniform decline results from causes growing out of their location. So true is this position, that, while you can scarcely point to a nation of Indians wasting away, either numerically or physically, in *their native wilderness*, I know of no tribes within the states, surrounded by a white population, who have not declined in both these respects, and who are not in manifest danger of extinction. What, sir, has become of the immense hordes of these people, who once occupied the soil of the older states? In New England, where numerous and warlike tribes once so fiercely contended for supremacy with our forefathers, but 2500 of their descendants now remain! And these are mixed with negro blood; *dispirited and degraded*! Of the powerful league of the Six Nations, so long the scourge and terror of New York, only about 5,000 souls survived! While in Jersey, Pennsylvania, Delaware, and Maryland, they are either entirely extinct, or their numbers are so reduced as to have escaped the notice of the Department. In Virginia, Mr. Jefferson informs us, that there were in 1607, between "the sea coast and the mountains, and from the Potomac to the most Southern waters of James river, upwards of forty tribes of Indians,"—now there are but forty-seven individuals within the whole state! From North Carolina none are returned—and only four hundred and fifty from South Carolina! While in Georgia, where, thirty years since, there were not less than thirty thousand souls, within her present limits there are not now more than half that number. That many of these people have removed, and others perished by the sword in the frequent wars which occurred in the progress of our settlements in all these states, I am free to admit. But where are the hundreds of thousands, with their descendants, who neither removed nor were thus destroyed? Sir, like a promontory of sand, exposed to the ceaseless encroachments of the ocean, they have been gradually wasting away before the current of the white population, which set in upon them from every quarter; and unless speedily removed by the provisions of this bill, beyond the influence of this cause, a remnant will not long be found, to point you to the graves of their ancestors, or to relate the sad story of their misfortunes! From this view of the subject, sir, I am brought to the conclusion, that two independent communities of people, differing in color, language, habits, and interests, cannot long subsist together—but that the more intelligent and powerful will always destroy the other. This, it must be confessed, is a sombre picture of human nature—but it is a sketch from real life; and the statesman will legislate for man *as he is*, and not as he *ought to be*. Now, communities not independent of each other, may differ in most of these respects, and yet not only subsist together, but, to a certain extent, increase and better their condition. Some of the South American Indians, although conquered and reduced to slavery by the Spaniards, were not destroyed. Their tribes are still extant; and, having commingled their blood with that of their conquerors, they are at this time an improved and powerful people. The African slaves, too, in the United States, are a distinct and separate people, but they rapidly increase, and are daily improving in condition. In these instances, the *mutual dependence* which exists, creates, in some sort, a community of interests. But, two communities of people, wholly independent of each other, and differing essentially in character and habits, must find their feelings and interests in perpetual collision. To confine such discordant materials, therefore, within the limits of the same state, cannot fail to engender endless contentions. And these, as in all other controversies, where physical power is made the arbiter of

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right, must ever result in the discomfiture of the weaker party; who, at length, dispirited and degraded under a sense of comparative weakness, and increasing wants, become idle and vicious, seeking in the bottle that gratification, which they once enjoyed in the chase—and this degradation, and these habits, lay the foundation of their subsequent deterioration.

And, sir, if it be so difficult to preserve the Indian population within the states, from gradual but certain extinction, owing to the operation of causes inseparable from their location, how can we hope to promote either their moral or intellectual improvement, under such circumstances? Confidence in the sincerity and good intentions of those who essay to teach and improve us, is essential to success in the undertaking. But how can confidence exist amidst the daily irritations which grow out of the unhappy situation of these people? Are they yet in the hunter state? Their sustenance, then, depends on the quantity of game that may be found within their limits. But this is daily decreasing, by the encroachments of the whites, who penetrate their forests, and kill off the animals on which they subsist. Have they advanced to the condition of herdsmen? Their stock pass the boundaries of their territory; they are found to trespass upon the property of the whites, and they are destroyed.

Nor, sir, is this all; new acquisitions of territory are repeatedly urged upon them, and, savage as they are, they are not so devoid of common sense, as not to argue from the past to the future, and to anticipate the fate which awaits them, in the traditions of the powerful tribes who once commanded the banks of the Potomac and Delaware, and whose names alone survive! Under the pressure of such circumstances, it is idle to look for any solid or extended improvement in the Indian population within the states. A few of them, of mixed blood, may acquire some knowledge, and more property; but the great mass of this population cannot be expected to escape the causes of decline and degradation which have heretofore produced such uniform results. Under this impression, and with a view so to sustain and improve the Indians now within the states, this bill was reported. It proposes to accomplish these benevolent objects by the purchase of a tract of country lying between the Missouri and Arkansas rivers, as a *permanent possession* for these people. This tract is said by Mr. Storrs, who has explored it, to be very fertile, well watered, and abounding in game. But I will give you his own language, from a letter lately received by the Chairman of the Committee on Indian Affairs. In reference to the plan of colonizing the Indians, he says,

"Nature could hardly have formed a country more admirably fitted to such a purpose, than that which lies between us and the Arkansas river. It is among the most beautiful and fertile tracts of country I ever saw. Streams lined with timber intersect and beautify it in every direction. There are delightful landscapes, over which Flora has scattered her beauties with a wanton hand; and upon whose bosom innumerable wild animals display their amazing numbers. The Spring clothes this solitude with its richest scenery, and affords a combination which cannot fail to please the eye and delight the imagination.

"If a few remnants of our tribes were settled here, embracing, if possible, the Osages and Kansas, and their prospect should become flattering others would naturally join them, and form similar establishments; and, in the course of a few years, we should witness the gratifying spectacle of an organized government of industrious habits, and peaceful villages, surrounded with smiling fields and domestic herds. As I passed through that delightful region, I could not help regretting that it should be a waste of Nature; and felt a secret assurance that, at some future period, flocks would feed upon its abundant herbage, and a numerous population would

derive support from its fertility. It is a part of the country which will not answer our purposes of social intercourse and compact settlements. But, for the Indians, hardly any country could afford greater advantages than the tract adjoining the Kansas river, the Osage, the Neocio, the Verdigrise, and, perhaps, the Arkansas, below where our route to Mexico crosses it. They could, from those places, procure salt from the salt plains of the Arkansas; and during the incipient state of their progress, before their harvest could be equal to their support, the game would afford them an abundant means of support."

Such is the country proposed to be assigned to the Indians as their future home. It will be sub-divided into surveys of sufficient extent to meet the exigencies of every tribe; and to each will be assigned a separate location. The whole to form a colony of red men, under the protection and guardianship of the Federal Government. From this territory, all white men will be rigidly excluded, except missionaries, teachers, and artisans, now engaged in their instruction and improvement, or such as may hereafter become necessary for that purpose; and these will be removed and settled with them. In this situation, all the wants of such a people will be provided for. No sudden transition from the hunter to the agricultural condition, will be expected by practical men. Such a change must be the work of time, and can be realized only in the descendants of those who shall be removed. These will be sedulously taught, both by precept and example, the value of the cultivation of the earth, on *permanent possessions*, and under a government of known laws. And, growing up under the influence of such instructions, with minds and morals improved, and relieved from the debasing associations of their former situation, every hope may be indulged of the most gratifying result. In the mean time, the adult population, upon whose habits and prejudices no very salutary effects could be expected, will find employment and profit in the chase, and in the management and increase of their domestic animals; for which purpose every section of land may have an outlet to the Rocky Mountains, and the privilege of hunting be purchased of the natives.

But, here, sir, I will anticipate two objections. The first, that the congregation of so many different tribes of Indians on adjoining tracts, must necessarily lead to wars between them, more ruinous than the collisions they experience with the whites in their present situation. This would probably be the case, were they not sensible of the presence and power of the Federal Government, to adjust their difficulties, and to put down the wrong doer. But it is proposed to have agents among them, men of known principle, well acquainted with the Indian character, respected by them, and anxious for their improvement. These men will act as umpires between the various tribes, and, by a timely adjustment of their quarrels, take away the occasion of wars. And the presence of the military posts, which will be stationed on the Western and Northern limits of this colony, cannot fail to give to such supervisory law, the efficiency which is anticipated. The second objection is, the danger to be apprehended by the adjoining states, from the power of the Indians thus collected. But, sir, it is to be recollected that these tribes have all experienced the power, and been subdued by the arms of the United States; and that the position which they will occupy, is one which will expose them to the whole Indian population to the North and West of them. Under such circumstances, every motive to be suggested, either by fear or interest, must impel them to the cultivation of peaceful habits, and a close alliance with the United States. This objection, then, is founded upon the supposition, that these Indians will act directly contrary to their obvious interests, and make war upon those whose power they *know* they cannot resist, and the preservation of which, they *feel* to be necessary to their



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own safety. Now, this is too violent a supposition to be the foundation of any objection which would require serious refutation. The contemplated removal and settlement of those Indians, therefore, will not endanger either *their peace or our safety*, while it promises to them an entire exemption from all the causes of deterioration, under which they now languish. That the civilization and moral improvement of these people, must be the necessary consequence of their removal and settlement as this bill contemplates, I am not prepared to say. But I do say, Mr. President, unless they are removed from their present situation, and that very shortly, too, there will be but few to require this experiment at your hands—an experiment which, although it may fail, I believe to be more full of hope and promise, concerning the future prospects of this unfortunate race, than any which has been heretofore attempted.

Thus much I have felt it my duty to say, in reference to the deep interest I believe the Indians have in the proposed measures. But, I have said these measures would also increase the wealth and power of the Union. The removal of the Indians beyond the limits of the states, would leave us in possession of all the lands they now occupy; and these, from their situation and extent, must be very valuable. Almost all the Indian reservations have been of the best lands; and surrounded, as they are at this time, by a white population, and improved by roads, and other facilities of intercourse with the adjacent country, they would command comparatively a high price. But these lands form an aggregate of no less than seventy-seven millions five hundred thousand acres. Now deduct nine millions five hundred thousand acres, as lands belonging to Georgia, when the Indian title shall have been extinguished; and one hundred and forty-four thousand in possession of the Cahawba Indians, but which, if surrendered, would belong to South Carolina, and you will have sixty-seven million eight hundred and fifty-six thousand acres subject to the disposition of the United States! Suppose this immense tract sold at only two dollars per acre, a fund would be created of one hundred and thirty-five millions seven hundred and twelve thousand dollars! Which, after reimbursing the Treasury for all expenses incurred in carrying into effect the provisions of this bill, would not only be adequate to the extinction of the national debt, but leave an immense amount at the future disposal of the Government.

But, sir, the wealth and power of the Union will be still more advanced by the greater compactness of the population, and the increased cultivation of the soil of the states, which would be ensured under the operation of the system. If the wealth of a nation depends upon the quantity of its surplus productions, whatever has a tendency to increase these productions, must operate favorably upon the resources of the community. By the plan proposed, an immense tract of land, now useless, would be brought into cultivation, some of which will produce the most valuable staples, either for use or exportation. Within the states of Georgia, Alabama, Mississippi, and Tennessee, there are upwards of 33,000,000 of acres of valuable land, that would be redeemed and brought into cultivation! Most of this soil would grow cotton, and swell the valuable export of these states to an astonishing amount. But, sir, what shall I say of the value of the population which this measure would ensure to these states? This Senate must be well aware that it is not less the policy of the Federal Government than it is the interest of these states to afford every facility to the rapid increase of their efficient population. Situated at the most exposed point of the Union, as two of these states are, with an extensive sea coast, incapable, from the nature of its soil, of sustaining but a very sparse population, they must rely, for their defence, principally, on the dense population of the interior. Florida, too, with her immense maritime frontier, will look chiefly to Georgia and Alabama for aid in time of war. And, as

New Orleans was saved in the last war by the power of the adjoining states, so Florida, and the seacoast of Georgia and Alabama, can be successfully defended against future invasion only by the timely augmentation of their physical power. It becomes, then, an object of cardinal interest with the Federal Government, upon whom devolves the high duty of national defence, that every portion of these states should be filled up with an effective population; and blind, indeed, is that policy, which would continue to appropriate so many millions of acres of land, *thus situated*, to the unproductive uses of Indian occupancy, regardless alike of the wealth of the nation, and of her means of defence! But, sir, independent of the general policy which so strongly recommends this measure, its tendency to fulfil the just expectations of Georgia, in reference to the cession of 1802, should ensure to it the most favorable reception. Twenty-three years have nearly elapsed, since the Union contracted, for a valuable consideration, to extinguish, for the use of Georgia, the Indian title to all the lands within her limits. Knowing the influence and power of the Federal Government, Georgia could not have anticipated the delays which have occurred, nor foreseen the obstacles which they would have interposed to the accomplishment of her expectations. And, although fully sensible of the pernicious effects of this procrastination, in the abridgment of her wealth and power, such has been her attachment to the Union, and respect for its Government, that she has hitherto repressed the full expression of disappointment, in the hope that every new appeal to the justice of the United States would result in the performance of their stipulations. Formerly, her claims were postponed for the convenience of the National Treasury; and, latterly, by representations of the difficulties of compliance. But now, sir, a plan is offered for your acceptance, free from all these embarrassments. It is proposed to exchange lands beyond the Mississippi for those tracts held by Indians within the states. Should this plan succeed, it will enable the United States not only to discharge their obligations to Georgia, "*peaceably, and on reasonable terms*," but to confer a lasting benefit on the Indians thus removed, by giving them a *permanent home*, for their present *precarious possessions*. In his message on this subject, the President informs Congress, that a treaty with the Creek Indians is now negotiating, and, "with a reasonable prospect of success." Although no serious difficulties may now present themselves to the acquisition of these lands, yet, every day's delay is calculated to augment such as do exist. The attainment of property by a few individuals of mixed blood, (some of whom own cotton plantations, worked by African slaves,) has given to a small minority a controlling influence in the councils of the nation. These men become, annually, richer and more powerful, while the great body of the nation are impoverished and degraded. Without game to subsist on, and unskilled in the arts of civilized life, they are in fact the menials of this aristocracy, who employ and support them; and who, fully sensible of all the advantages resulting to their avarice from the possession of this power and influence, will not easily be persuaded to use either in support of a policy which, however it may be calculated to subserve the interests of the mass of the red population, may ultimately deprive them of the station and emoluments they now enjoy. Most of the difficulties which have been experienced in treating with these Indians, have been occasioned by the influence and intrigues of men of this description, who, having no interests in common with the nation, could not be expected to sympathize with them. The mass of the red population have long been inclined to such a removal and settlement as this bill proposes; and, should the treaty with the Creeks succeed, the Indians will be removed, *at their own request*, beyond the Mississippi, and settled upon lands to be given them as a *permanent pos-*

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session, in exchange for those they shall have surrendered. In fact, a disposition to such a removal and settlement as this bill contemplates, is manifesting itself from various quarters; and many applications for this purpose have been already made to the War Department, by the more intelligent and reflecting among the Indians of different tribes. Nay, sir, delegations from ten or twelve tribes have actually arrived in this city, within the two last days, charged by the nations to whom they belong, with the expressions of their gratitude for the propositions contained in this bill, and of their readiness to comply with its requirements. Nothing, then, is wanting to the accomplishment of this important object, but the sanction of Congress. About 130,000 souls of this unfortunate race now await their destiny at your hands! Pass this bill, sir, and you elevate their character, and impart new hopes to their future prospects. Reject it, and you set your seal to their degradation. And, although their fate may be delayed, I consider it as inevitable as the march of time. Every motive, therefore, of humanity, of policy, and of interest, urges you to the sanction of this bill. In such a cause, and under such circumstances, I am not permitted to doubt the decision of the Senate. The bill was then ordered to be engrossed for a third reading.

After the consideration of Executive business, The Senate adjourned.

#### HOUSE OF REPRESENTATIVES—SAME DAY.

Mr. SHARPE moved to consider the bill to extend the right of deposit in public stores, with certain privileges, to other goods besides wines, teas, and distilled spirits. The motion prevailed.

Mr. SHARPE went at great length into an exposition of his views in relation to the bill. He took a general view of the present state of American commerce, especially that connected with the port of New York, and argued, from various considerations, the expediency of passing the bill, which he considered as of the utmost importance.

Mr. WILLIAMS, of N. C. though professing himself in favor of the bill, was induced, in consequence of the advanced state of the session, and the mass of business reported for immediate attention, to move to lay the bill on the table. The motion prevailed.

#### MASSACHUSETTS CLAIMS.

A message was received from the President of the United States, by Mr. Everett, (of which a copy appears in the proceedings of the Senate of this date.)

Mr. CROWNINSHIELD moved that the message be referred to the Military Committee.

Mr. WEBSTER said he did not rise to oppose the reference which his hon. colleague had proposed. He did not know that that might not be a proper disposition to be made of the communication. He was sorry—most truly sorry, however, to be obliged to say that this measure did not seem to advance the claim—even that part of it which was admitted to be just—a single step nearer payment than it was before. He did think it a little extraordinary, that it should be thought necessary to apply to Congress at all, for the payment of that part of the claim which seemed to be admitted to be free from any well founded objection. He, for one, could not acknowledge himself satisfied with the course which had been adopted, or to so much of this claim as was acknowledged to be just. Why, if just, has it not been paid, like other claims? As far as he was concerned, as a member from the state, he should only ask for justice. He wished for nothing else, neither now nor hereafter. He hoped the present motion was made, under an expectation that the committee would report a bill for the immediate payment of whatever was found justly due. He thought the state had a right to expect this; and if it could not be obtained, without the aid of a law, he

did hope, most earnestly, that a proper bill would be at once reported. It was time, he thought high time, that justice should be done to the States concerned, somewhere. And if a law were necessary, he hoped it would pass without further delay, so far at least as to provide for paying what seemed admitted to be due.

The motion to refer the message prevailed.

#### IN SENATE—WEDNESDAY, FEBRUARY 23, 1825.

The engrossed bill for the preservation and civilization of the Indian tribes within the United States, was read a third time, *passed*, and sent to the House for concurrence.

The engrossed bill authorizing the purchase of the Equestrian Portrait of Washington, by Rembrandt Peale; was read a third time.

On the question Shall this bill pass?

Some discussion ensued; Messrs. KING, of Alabama, MACON, LANMAN, and NOBLE, opposing the appropriation, which was supported by Messrs. MILLS and LOWRIE; it was finally decided in the affirmative by Yeas and Nays, as follows:

YEAS.—Messrs. Barton, Barbour, Benton, Boulogny, Clayton, Eaton, Elliott, Findlay, Hayne, Holmes, of Me. Holmes, of Miss. Jackson, Johnson, of Ken. Kelly, Lloyd, of Mass. Lowrie, Mills, Parrott, Ruggles, Seymour, Smith, Talbot, Van Buren—23.

NAYS.—Messrs. Branch, Brown, Chandler, Cobb, D'Wolf, Edwards, King, of Alab. King, of N. Y. Knight, Lanman, McIlvaine, McLean, Macon, Noble, Palmer, Taylor, Tazewell, Williams—18.

So the bill passed and was sent to the House for concurrence.

#### CUMBERLAND ROAD.

The Senate took up, as in committee of the whole, (Mr. BARBOUR in the chair,) the bill appropriating 150,000 dollars for the extension of the Cumberland Road from the Ohio to the Muskingum, at Zanesville—the amount of the appropriation to be reimbursed to the Treasury out of the fund reserved for laying out and making roads under the direction of Congress, by the several acts passed for the admission of the states of Ohio, Indiana, Illinois, and Missouri, into the Union—

Mr. BROWN, of Ohio, (Chairman of the Committee on Roads and Canals,) said this was not at all a new subject to the Senate, but it was one of great interest, not only to all the states West of the Ohio, but to some of the Eastern states likewise. He therefore asked the favorable attention of the Senate to it. He would not deny that the state he represented would be one of the first to feel the benefit of the appropriation, but it would, he hoped, be admitted, that the state of Ohio had some reason to ask this of the General Government, and it ought to be conceded to them. The Legislature of that state had, he said, passed laws, during the last session, for opening a navigable canal between the waters of Lake Erie and the Ohio, which, when completed, could not fail of being of great service to the United States, in peace and war, and would likewise enhance the property of the United States in that state, and in those further Westward. If, therefore, from such considerations, the United States would make a beginning this year, for the extension of the road beyond the Ohio river, which now connects the valley of the Ohio with that of the Potomac, they would find their own interest in a liberal policy in this regard, which would be of material service to the Western states.

Independent of political and commercial considerations of no small importance, and viewed simply in relation to its effect upon the Treasury, the propriety of extending the road might be safely advocated. Since it was no longer doubtful that facility of communication imparted value to property, he might, without extravagance, presume that the Treasury would, at no very distant day, be amply repaid the appropriations which

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the liberality of Congress should cause to be advanced for this object. If this were a matter in which the state of Ohio alone was concerned, this appropriation would not, probably, have now been asked; but it would be evident that, much as the present inhabitants of those states were interested in it, the United States were, as proprietors, evidently more so, as respected the increased value it would give to their property. The United States possessed, in the three states Northwest of Ohio and the state of Missouri, from fifty to seventy millions of acres of land, which would be much increased in value by the extension of this road—and if the United States should receive no higher price for those lands than they now receive, a desirable object would be obtained, in the more rapid sales; the facilities of purchasers would be increased, which would be a great inducement to persons to settle in that country, and this should be well considered, if it was of much importance that the public land should be speedily sold, as well as that it should realize the price Congress had contemplated. The sum now asked was only 150,000 dollars—a small sum, he thought, compared with those expended in other places, but it was a sum that would produce a very sensible benefit to that part of the country, and to which he hoped no objection would be made.

It might, he said, be objected by some gentlemen, that the cost of the road, heretofore, as far as it had extended, had been very great. Mr. B. agreed to this. It had, indeed, been more expensive than it should have been, but it was constructed in different times from the present; it was constructed when the mode of conducting such operations was new. Hereafter it would be constructed on better principles of economy, and the state of the country was better fitted for it than it was at that time. The distance from Wheeling to Zanesville was, he said, the roughest part of the country over which the road was to pass till it should reach the Mississippi.

Independent of the importance of this road, in increasing the value of landed property, it would be important in a political point of view. It would likewise facilitate the progress of the mail; and many other important considerations had so far recommended this subject, that it had been sanctioned by Congress, and by two Presidents of the United States, the most scrupulous, on the constitutionality of internal improvements by authority of Congress. In regard to the contract which had been made with the Western states for constructing that road from the Eastern states towards the Western ones, he would merely observe, that the United States had received a concession of much greater value—for five per cent. on the net proceeds of the sales of public lands for constructing roads, three per cent. to be laid out by the state, and two per cent. to be laid out under the direction of Congress, in constructing roads leading to those states. He hoped the generosity of the Senate would take into view this bargain, as a bargain not favorable to those states; but of which, having agreed to it, they would not complain. It was, indeed, a hard bargain on their part. In the state of Ohio, assuming the medium rate at which taxes had been levied—and they had been as low as possible, for the people had begun poor, without public funds or territory—they had at least given up a million of dollars. It was easy to conceive how hard it bore on the settlers there, and how much public improvement was retarded by the effect of this compact.

This was not all bestowed for the benefit of the inhabitants of those states; the three per cent. laid out in the state were laid out in improvements to increase the value of the United States' property, as well as that of the inhabitants—for in 1806 or 7, the proportion of land held by the United States, including Indian lands,

was, he believed nearly as 14 to 9 or 10. The two per cent. ought not to be charged to this account as exclusively affecting the Western country, but so far as it applied to the object last mentioned, was to be apportioned in like ratio.

It should be remembered, too, that the people beyond the mountains contribute to the revenue.

He hoped, therefore, that granting this appropriation would not be considered as conferring an extraordinary benefit on the Western states, at the cost of the Eastern; yet the Western states would be grateful for this care of their interests.

Mr. COBB said, that, although he would not pretend that he should be able to throw any new lights on the great principles involved in the bill under consideration, yet he could not consent to its passage without some degree of investigation, and therefore he solicited the attention of the Senate for a few minutes. At the present period, it could not be expected, that there are many persons who could contribute additional lights upon a question which had engaged the attention, and elicited the investigation of the ablest statesmen in the nation. Yet he looked to its final decision with very great anxiety. He thought the Senate would concur in believing with him, that those principles had not been entirely settled when they looked to the history of this system of internal improvements. There had been no instance within his recollection, when the claim for the power of adopting it had been advanced, in which it was not denied by some one of the departments of the government. At the very first session of the Congress of which he had first the honor of being a member (which was at the commencement of the present administration) the question was brought before the House of Representatives. At that time a solemn vote was taken in that body, declaring that Congress had no power to construct roads and canals. This vote was predicated on the report of a committee appointed on so much of the President's Message as related to the subject, and, in which message, the power was expressly denied to Congress. How far the opinions of the Executive, since that period, had undergone a change, in relation to the question, was as well known to the Senate as to himself; he should not stop to point out the change, if any, inasmuch as he adverted to the message, merely to shew that the question had not been settled. He repeated, that he felt great anxiety as to the result of the vote now about to be taken in the Senate, inasmuch as he believed it involved the great question, Whether this government was to drop all its federative characteristics, and was about to become, as predicted by the great Virginia Prophet,\* a splendid national consolidated government, reared upon the ruins of the sovereignty of the people and the states? In using such expressions, Mr. C. said, he was aware that he was harping upon an old string, whose simple notes were extremely disagreeable to the ears of certain modern politicians. The subject had become untasteful. But, from the earliest period at which he had seriously thought upon political subjects, he had been taught to reverence the principles he was attempting to advocate, and the Senate would therefore pardon the terms he had used, if there was any thing offensive in them. He had learned, from the State in which he was born, (and of which you, sir, are a Representative)† that there is safety in sometimes recurring to fundamental principles.

Much might be said, he thought, as to the expediency of the measure under consideration. It might, with great propriety, be inquired, why Congress was called on to extend the Cumberland Road at this time, even admitting they had the power? Why the Western States were now better entitled to have such a beneficial

\* Patrick Henry.

† Mr. Barbour, of Virginia, was in the chair when Mr. C. delivered his remarks.

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been extended to them, than the other States of the Union? What was said when the Cumberland Road was first undertaken? The sole object was to form a connection, by a permanent and durable road across the Mountains, between the Atlantic Coast and the navigable waters of the West. This was effected by constructing the road from Cumberland to Wheeling. At that time, did any person dream that so soon, if at all, Congress was to be called on to extend it from Wheeling to the Mississippi? For that, he understood, was the object avowed by the advocates of the bill. If the Western States, generally, could have no claim to such a beneficial work, much less had the State of Ohio, considered singly. The fund out of which it is said the expense of making the road is to be paid, so far as any portion of it is derivable from that state, had been long since expended. The reservation of the per centage on the sales of the public lands for roads, in the State of Ohio, had been sunk in constructing the Cumberland Road, to which it was, by law, applied. Nay, the expense of that road had greatly exceeded the reservation, by many thousand dollars. He was sure the fact would not be denied.

As the question involved all the principles relating to the powers of the Federal Government on the subject of internal improvements, he would here lay down a proposition, which he thought almost self-evident. It had been contended, that the United States were bound to construct this road, by compact made with several of the Western States at the time of their admission into the Union. Admitting that such a compact could be produced, and that it contained an express stipulation to that effect, it would not, in his opinion, change the proposition. It is, that Congress have no powers, and can have none, but such as are derived from the constitution of the United States. It matters not with whom, whether a state or an individual, the Federal Government may have made such a compact, it could add nothing to the powers of that government, unless contained in the constitution itself. This was sufficiently evident from the very first section of the first article of that instrument, which declares that the Legislative powers "therein granted" shall be vested, &c. Other parts of the instrument, especially some of the amendments, shew the truth of the proposition beyond doubt. He would not now turn to the clauses, as they were, doubtless, familiar to the memory of every member present.

Almost every person who had expressed an opinion on the subject, so far as had come under his observation, admitted that this Government was one of limited powers—limited not alone by the prohibitions of power to be found in the constitution, but by an absence or want of a grant of power therein. It would seem that this was true, as well from the parties by whom, as from the manner in which, the Federal Government was first constructed. It was, perhaps, unfortunate, that we do not more frequently recur to the circumstances under which the constitution was framed, when we are about to establish the principles from which is to be derived the true rule for the construction of an instrument of such vast importance.

By what parties, and for what object the instrument was formed, would better appear from a document which he was about to read, than from any thing he could say.—It was one of the celebrated resolutions of the Kentucky Legislature,\* containing, as was at one time said, the foundation of Republican principles. He used the word Republican as a party designation, inasmuch as he now had allusion to the principles professed by the party so

named, at the period of the adoption of the resolution, and for a long time thereafter. It is as follows:

"Resolved, That the several states, comprising the United States of America, are not united on the principle of unlimited submission to their General Government; but that, by compact, under the style and title of a "Constitution for the United States," and of amendments thereto, they constitute a General Government for special purposes, delegating to that Government certain definite powers, reserving, each state to itself, the residuary mass of right to their own self-government—and that, whensoever the General Government assumes undelegated powers, its acts are unauthorized, void, and of no force. That, to this compact, each state acceded as a state, and is an integral party, its co-states forming, as to itself, the other party. That the Government, created by this compact, was not made the exclusive or final judge of the extent of the powers delegated to itself, since that would have made its discretion, and not the constitution, the measure of its powers. But that, as in all other cases of compact among parties, having no common judge, each party has an equal right to judge for itself, as well of infractions, as of the measure of redress."

In this resolution will be found the anatomy of the Federal Government; the principles on which it was created; and, if so, it will not be a difficult matter to determine in what manner the parties to the constitution, those by whom the Federal Government was framed and adopted, intended this instrument of creation should be construed and expounded. If the doctrines contained in that resolution are true, then it is evident that the compact, thus denominated the Federal Constitution, was one entered into between sovereign states, wherein each relinquished a portion of its sovereignty. Common sense would teach us that such a compact should be so strictly expounded, as to take from the grantors no more of their sovereignty than is absolutely necessary to effect the great objects of the compact. At this very point, then, (said Mr. G.) I start in establishing that strict rule, by which I conceive the constitution should be expounded. If I should be so fortunate as to support this strict rule, by other circumstances, equally strong and forcible, it may, with propriety, be contended, that the power to construct roads and canals is no where to be found in the constitution. Should I, however, fail in showing this to be the true rule, and the liberal one, more recently established, should be adopted in its place, I shall not be able to deny that such power, or any other not expressly prohibited, is conferred.

The rule for which I contend derives strong support from many other circumstances, as before stated. It is supported from the first section of the first article of the constitution, which I have already noticed. It is supported by the adoption of the amendments of the constitution, all inserted for "greater caution." It is supported by the manner in which amendments are directed to be made. When adopted by Congress, they are to be ratified by that body, in each state, which represents its sovereignty; or the same representatives of sovereignty may request a call of a convention for proposing amendments. It is supported, also, by the declarations and commentaries of the early expositors of the instruments. I venture to throw the gauntlet, and defy any one to point to any contemporaneous expositor, of approved reputation, who has decided in favor of those broad and liberal principles of construction contended for by the advocates of the bill.

Finally, I refer to the ratifications of the constitution by the several state conventions, as furnishing unanswer-

\* These resolutions are said to be, and no doubt are, the production of Mr. Jefferson, and contain his opinion on the subjects embraced in them.

† Resolutions of a similar character were about the same period (1798) adopted by the Legislature of Virginia, in support of which "Madison's report" was founded, at the session thereafter. At a later period, the Legislatures of Pennsylvania and Ohio adopted resolutions containing like principles.

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able evidence in favor of a strict construction. Inasmuch as these instruments have been so recently published, that the public mind may not be very familiar with them, (although the members of the two Houses of Congress may be,) I hope I shall be pardoned for turning to small parts of several of them.

In the ratification of the constitution of the Commonwealth of Massachusetts, I find the following declaration: "That it be explicitly declared, that all powers not expressly delegated by the aforesaid constitution, (of the United States,) are reserved to the several States, to be by them exercised."

What inference is to be drawn from this declaration, thus made by the Representatives of the people of Massachusetts, selected for the express purpose of considering on the propriety of adopting the constitution, but that, by ratifying the instrument, they intended to yield only such powers as were expressly granted? In other words, that none of their reserved powers should be taken from them by construction of doubtful terms and phrases?

The State of South Carolina, in like manner, declared, in her ratification, "that no section or paragraph of said constitution, warrants a conclusion that the States do not retain every power not expressly relinquished by them and vested in the General Government of the Union." The language of this declaration is more explicit than that of Massachusetts, and leaves no doubt as to the rule by which that State intended the constitution should be interpreted.

The ratification, by the State of New Hampshire, contains a similar declaration, "that all powers not expressly and particularly delegated by the aforesaid constitution, are reserved, &c."

The terms used in the ratification, by the New York Convention, are quite as explicit—"That every power, jurisdiction, and right, which is not, by said constitution, clearly delegated to the Congress of the United States, &c. remains to the people of the several States, or to their respective State Governments, &c."

The ratification by the State of Rhode Island declares, that "every power, jurisdiction, and right, which is not, by the said constitution, clearly delegated to the Congress of the United States, &c. remain to the people of the several States," &c.

In the ratifications of Virginia and North Carolina, an amendment was proposed, embracing the same principle, with a slight modification. It is, that "each State in this Union, respectively, retain every power, jurisdiction, and right, which is not, by this constitution, delegated" (the adverb "clearly" being left out) to the Congress," &c.

There were seven States, being a majority of those who adopted the constitution, who inserted the declarations I have quoted. I have read them to show, under what impressions the people of the several States, represented in their several state conventions for the express object, received and ratified that instrument as the supreme law of the land, and to show, that the delegation of power was to be "clear, express, or particular," or at least beyond doubt, before it could be exercised; consequently, that the grant was to be strictly construed. From all these circumstances, it appears to me that this rule of construction is so clearly deducible, as that an exercise of power upon any other, would be little else than a fraud upon the people, and a usurpation of their rights! The use of such language is justifiable only upon the principle that I have proved that such, and such only, is the true rule of construction.

Having said thus much concerning the nature of the Federal Government, the limitations of its powers, the rule by which the Constitution should be expounded, I proceed to the inquiry, From what clause in that instrument can the power to construct roads and canals be derived? I admit there is no clause prohibiting the exercise of such a power—but it is equally plain that there is no clause containing an express grant of the right, as a distinct and independent power. May we not go somewhat farther, and say, that, in addition to the fact of no such express grant of power being found in the Constitution, there is a strong presumption that such a grant was intended to be denied to the General Government? This presumption is established from the Journal of the Convention, as I will read: On the 14th Sept. (Journal of Convention, p. 376,) it was proposed to add to the enumeration of powers contained in the 8th sec, 1st. art. the following: "To grant letters of incorporation for canals," &c. It was rejected, three states only voting for it, viz: Pennsylvania, Virginia, and Georgia. There is a slight difference in words, between the amendment thus rejected, and the bill under consideration. The amendment proposed to invest Congress with power to "grant letters of incorporation for canals," &c. The bill presupposes that Congress possesses the power to construct roads and canals. But every one will at once see, that there is no difference in principle. For if the power to grant letters of incorporation for canals, &c. had been conferred on Congress, it would have carried with it a grant of power to Congress itself, to construct them, inasmuch as the letters of incorporation could confer only such powers as vested in the person or body politic by whom they were to be granted. What, then, is the presumption to be drawn from the refusal by the Convention to confer this power? It can be only one of two: 1st, That the Convention intended to deny the power to Congress, and if so, the question as to our power to pass the bill under consideration is settled: we can have no such power. 2d, The other presumption is, that the Convention refused to adopt the amendment, because they believed the power was conferred in some other clause or grant. If this last presumption were correct, we should have had some evidence, somewhere, of its truth. We should have had some hint, either from the early expositors of the Constitution, or from the declarations of some member of the Convention, that such was the opinion entertained by that body. Consult the Letters of Publius, published under the title of the Federalist—that work was principally written by two distinguished members of the convention, one of whom was at his post when the vote was taken on the amendment. Does that work any where insinuate that such power was vested expressly or impliedly, in Congress, by the Constitution? Nay, has not the distinguished individual alluded to, when subsequently President of the United States, in a solemn message to Congress, denied that any such power was conferred by the Constitution? Surely it would not have been unknown to him, if the Convention had ever intended to delegate the power. Consult, also, the work recently published by Mr. Yates, another member of the Convention, and nothing will be found favorable to the presumption. At the present moment, we have in this very body a distinguished member of that Convention.† He was present, and voted on the amendment I have read from the Journal. Doubtless he will be able to inform us whether the rejection of the amendment proceeded from a belief in the Convention that the power was conferred in some other clause of the Constitution.§ This second pre-

\* Other motions of similar import were elsewhere proposed, but none of them adopted.

† Mr. Madison.

‡ Hon. Rufus King, of New York.

§ In this part of his remarks, Mr. K. addressed himself to Mr. K. who, shaking his head, is understood to have said, "Such a thing was not thought of." Mr. K. voted against the bill.



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sumption, then, is fallacious, and, consequently, Congress have no power, either express or implied, over the subject of roads and canals.

Notwithstanding these proofs and arguments, there are many who yet pertinaciously insist that the power is conferred; not expressly, to be sure, but cloaked under some express grant of powers as an incident thereto. When asked to what clause they refer it as an incident, they are placed in some difficulty to point their fingers to one. At one time, there were those who said it was conferred in that grant which gives Congress power "to provide for the common defence and general welfare of the United States," (2d clause, 8th sec. 1st art.) and under this claim the advocates of this system of internal improvements, and some other measures depending upon the same rules of construction, have gone so far as to say, "That, whatever the public good required to be done, was necessary and proper, and that Congress was, in this respect, like the state legislatures."—Others again have said, "That Congress may adopt any measures which they may deem necessary and proper to accomplish the object in any manner, whether the means be direct or remote." It will at once be seen, that, were such principles generally adopted, the powers of Congress would be unlimited even by the prohibitory clauses of the constitution; it is proper to admit, that the friends of the system under consideration, unwilling, as yet, to come to such a conclusion, (which, however, is inevitable, sooner or later,) have relinquished this derivation of power. Some have said, that the power is incident to that of "declaring war," or of "raising and supporting armies." This ground they have found to be equally untenable; because, with the same propriety they might have dispensed with the power to "levy, and collect taxes," as a distinct power; for the powers of declaring and prosecuting war, and of raising and supporting armies, would be inefficient without means, and money alone can afford those means; therefore, as incident of these powers, and as "necessary and proper" for their execution, Congress could have levied and collected taxes with equal propriety as they could construct roads and canals; yet the Convention gave the taxing power in a separate and distinct form.

In latter times, two other clauses have been selected, as containing the power to construct roads and canals, to which I shall now advert, viz: the powers "to establish post roads," and to "regulate commerce." It will be well to examine these clauses in the simplest form that we can. If, upon showing to a plain man, of good common sense, (and for such the Constitution was formed,) the clause conferring on Congress the power "to establish post roads," he were asked its meaning, would it enter into his imagination, that it meant to construct roads? How would he reason? His answer would be formed from his opinion of the circumstances of the country; that the Post Office establishment could not be managed with benefit by the states, therefore, it was proper to confer it on the General Government; that the mail was wanting only where there were people, and wherever these were, there would be roads of some sort, made by the local authorities; that the Constitution meant to give Congress the power of declaring upon which of such roads the mail should be carried, for the benefit of the greatest number, and that such declaration would be "establishing" such roads as "post roads," giving to them a legal existence as such. Under this plain, common sense construction, so obvious to every one, the Government has acted, from the adoption of the Constitution to the present time.

Let us examine the power "to regulate commerce," in the same manner. Were the same supposed individual asked the construction of this clause, he would commence by giving the plain and obvious meaning of the words. To "regulate" means to "adjust by

rule," and commerce means "trade or traffic in equivalent values." He would proceed, and take into view the situation of the United States before the adoption of the Constitution. Commerce was then carried on "among the states." The instruments employed were ships on the ocean, boats on the navigable streams, wagons, &c. on the roads made by the states. But each state had her own, and consequently different regulations as regards this commerce. Hence, the regulations were attended with discrepancies, a want of uniformity, irregularities, and frequently great injustice, which could not well be amended or prevented. It was, therefore, proper to transfer the power of regulating, that is, adjusting by uniform rules, the commerce among the states to the Federal Government, as a common and impartial arbiter upon the subject, who alone could avoid the pre-existing evils. Doubtless the coasting trade was principally in the view of the Convention and the states, when the Constitution was framed and ratified. Such a man would scarcely dream that the words included the authority to construct roads and canals, and to me it appears a monstrous stretch of power to give them that meaning, especially as we have already seen that, in the Convention, such authority was viewed as constituting, of itself, a separate and distinct power.

It will be in vain to enter into a further explanation of these two clauses. I have endeavored to put upon them what I think to be their obvious, common sense construction—such a construction as it is probable the people of the several states gave to them. The moment we go beyond such a construction; the moment we commence the work of attenuation, and making nice distinctions, we shall commence the destruction of the constitution, by constructing it in a manner to invest Congress with all the powers they may please to exercise.

I am aware that a very different rule of construction than that for which I have been contending has been established by an important and highly imposing department of the Government. I allude to the rule established in the opinion of the Supreme Court of the United States, in the case of *McCulloch* and the state of Maryland. That opinion goes the full length of denying almost every point for which I have contended. The points determined in that case may be stated as follows:

That the constitution emanated from the "people," and not from the "states;" (This position is directly at war with every principle contained in the resolution of the Kentucky Legislature, which I have already read.)

That although the Government of the United States is one of "enumerated and limited powers," it is supreme within its sphere of action:

That having the power to do an act, and having imposed on it the duty of performing that act, it must have the power of selecting the means; and has, moreover, given to it power to pass all laws "necessary and proper" to carry into effect its defined powers:

That the word "necessary" imports no more than that one thing is "convenient," "useful," "appropriate," "needful," or "conducive to" another:

That, in the selection of "means" to execute its powers, the National Legislature can exercise its discretion in the choice, and take all such as are "appropriate, plainly adapted to the end, not prohibited," &c. and is not tied down to such, without which some of the powers conferred could not be executed; and finally, Congress is to judge of the degree of "necessity."

Under such principles, I know not what powers Congress cannot exercise—I know of no limit to its powers.

For myself, Mr. President, I declare I have no reve-

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rence for the decision of this tribunal. Much has been said during the present session of the Senate concerning the claims of power set up by that court. In most of these sentiments I heartily concur. In the work of aggression, it has ever been foremost in the march. What claim of power by the Federal Government has it not sustained? What claim of power by the states has it not denied? Its members, deriving their authority and emoluments from the Federal Government—amenable only to that for their acts; answerable there only for acts of corruption; (for, however flagrantly erroneously their opinions may be, if unattended with corrupt motives, they are beyond the reach of punishment,) and holding their offices during life, fully understand the importance of their station. Supported by the other departments of the Government, this court has commenced the work of consolidation. In its outstretched hand it brandishes a sword which commands to the execution of its decrees, the purse, and the physical force of the nation. Before the terrors of that sword the friends, as well as foes of its authority are made to prostrate themselves; and the period, I fear, is not distant, when they must all perish by being crushed by the mighty engine of Government, of whose destructive approach it is only the forerunner.

I may be told of the venerable age, the talents, the sagacity, and high integrity of the individuals of whom this court is composed. These high sounding characteristics have but little weight with me. They are men; and when they have the opportunity of exercising power, like other men, they will do it, be the consequences what they may. I am no believer in the infallibility of judges.

Sir, if my opinions are to be regulated by those of others, there are other fathers in the political church whom I prefer consulting. I hold in my hand an extract from a speech, made by one of the most distinguished politicians who has ever had an influence in the councils of the Federal Government. It was made in Congress, at the session subsequent to the passage of the Sedition Law, and upon the expediency of repealing that law. I will read it:

"The expressions used in the clause (of the Constitution) are, 'necessary and proper.' The idea conveyed by the word 'proper,' is implied in that of the word 'necessary;' for whatever is necessary is proper. The addition of the word 'proper' was, therefore, useless, unless designed more precisely to ascertain the meaning of the word 'necessary,' the better to prevent a construction that, 'by necessity, nothing more was meant than propriety,' and to establish, beyond contradiction, that whatever might, by Congress, be thought proper, was not, on that account, to be judged necessary. Hence, the meaning of the word 'necessary' is confined in that clause to its strictest sense, to wit, to the power of passing laws, without which, some of the powers delegated to Congress, could not be carried into effect.

"In order to support the constitutionality of the law, [the Sedition Law] the Select Committee must suppose, in the first place, that Congress may pass laws without a certainty of their being necessary for carrying into execution some of the specific powers granted to them; that is to say, that Congress have powers to pass laws which may be unnecessary for that purpose. In the next place, that, if a certain law is necessary for executing a constitutional measure, of a temporary nature, that law may constitutionally be executed, although the temporary measure, itself, should not be executed at all; that is to say, that the incidental power may be exercised for a purpose different than that of executing the power on which it rests. [Such is the fact, as regards constructing roads.]

"The application of that constructive doctrine to the sedition and alien laws, justifies a conclusion, that, if adopted, it will substitute in that clause of the consti-

"tution a supposed usefulness or propriety for the necessity expressed and contemplated by the instrument; and which, in fact, destroys every limitation of the power of Congress. It will follow, that, instead of being bound by any positive rule laid down by their charters, the discretion of Congress, a discretion to be governed by suspicion, alarm, popular clamor, private ambition, and by the views of fluctuating factions, will justify any measure they may please to adopt; that, instead of being bound by a Constitution, they may claim the omnipotence of the British Parliament; that all the reserved powers of the people, or of the states, will be swallowed up at their pleasure, by that undefined discretion. In a word, that the Constitution itself, so far as respects a limitation of powers, is, by that doctrine, completely annihilated. Even the positive checks which, in a few instances, prohibit the exercise of certain powers, will not prove a sufficient guard against an inordinate appetite to legislate on some favorite subject."

Such are the views of this distinguished and venerable character. In perfect accordance with the principles of construction laid down by him, is the celebrated report adopted by the Legislature of Virginia about the same period, on the same subject. I have it at hand, but presuming every member of the Senate familiar with it, I will not detain them by reading it. A slight comparison of the portion of the speech which I have read, and of the report I have referred to, with the opinion of the Supreme Court, of which I have attempted to give an analysis, will show their utter hostility to each other upon all the principles of construction. Why should the decisions of that court be better entitled to our respect than the opinions of others equally eminent for talents, for patriotism, and stern integrity? Have they considered the subject more profoundly? Have the authors of the opinions to which I have referred, less character, less judgment, less impartiality? Sir, they had not the same interest in the establishment of the powers of this Government. They were the advocates of the rights and powers of the "people and the states."

From the arguments which I have urged, and the authorities and documents read and referred to in support of them, my conclusion is easily drawn. If the delegation of powers, (especially of incidental or implied powers,) is to be ascertained by a strict rule of construction; if the power proposed to be exercised, is not a defined power, clearly granted in the constitution;—if Congress cannot adopt unlimited means for the execution of limited powers;—nor such as merely have "a tendency to promote an end;"—nor such as are merely " requisite," "highly convenient," "appropriate," or "conducive to" that end; but only such means as "that, without them, some powers clearly granted, could not be executed;" such were the implied power, proposed to be exercised as "means," plainly flows from, and "necessarily and properly" grows out of, the defined or express power, having an immediate, appropriate, and undoubted relation thereto; then there is no power in Congress to pass this bill: For, none will contend that it is "indispensable," "necessary," or very highly "needful," for the transportation of the mail, or adjusting by rule, the commerce "among the several states." Both these powers are now executed without the aid of the bill, most beneficially and profitably for all. Even upon a fair interpretation of the rule established by the Supreme Court, it may be doubted whether Congress have power over the internal improvements of the country.

It will, however, not be without its use to examine into the consequences likely to result from the establishment of the liberal principles of construction laid down by the Supreme Court, and the advocates of this system of internal improvement. I cannot be mistaken in sup-

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posing that it will cause many of them to pause and shudder at the extent of the powers which such principles will confer on the General Government.

Will it be denied, at the present day, that the "Sedition law" was unconstitutional?—not barely as being contrary to that article providing for "freedom of the press," but because Congress had no power, express or implied, to enact it? I should be contending against shadows, to attempt now to prove that it was. It has been decided to be so by a tribunal higher than the Supreme Court. It has been decided to be so by the people themselves, in opposition to the opinions of every department of the Government. Yet, what was the reasoning employed by the friends of that measure in favor of its constitutionality? It will be found embodied in a report of a committee of the House of Representatives, in 1799, and upon which the speech, a part of which I have read, was delivered. I will read an extract from it.

The objection is—"That Congress have no power by the Constitution to pass any act for punishing libels, no such power being expressly given, and all powers not given to Congress, being reserved to the states respectively, or to the people thereof.

"To this objection it is answered, that a law to punish false, scandalous, and malicious writings, against the Government, with an intent to stir up sedition, is a law necessary for carrying into effect the power vested by the Constitution, in the Government of the United States, and in the departments and officers thereof; and consequently, such a law as Congress may pass; because, the direct tendency of such writings is to obstruct the acts of the Government by exciting opposition to them, to endanger its existence by rendering it odious and contemptible in the eyes of the people, and to produce seditious combinations against the laws, the power to punish which has never been questioned; because it would be manifestly absurd to suppose that a Government might punish sedition, and yet be void of power to prevent it, by punishing acts which plainly and necessarily lead to it; and because, under the general power to make all laws, "proper and necessary," for carrying into effect the powers vested by the Constitution, in the Government of the United States, Congress has passed many laws for which no express provision can be found in the Constitution, and the constitutionality of which has never been questioned," &c.

Precisely the same reasoning is employed by the Massachusetts report in answer to the Virginia resolutions, and which drew forth the able report of the Virginia Legislature, before alluded to. I have it at hand, but will not consume time by reading it. A very slight comparison will show that the principles of the report just read, and those contained in the opinion of the Supreme Court, so often alluded to, are the same, differing only in words and phrases. According, then, to these principles, another sedition law would be constitutional.

I am about to advert to another subject, which I know is a hateful one. I allude to the attempt made to impose a restriction upon the state of Missouri in relation to slavery. But I make the allusion without any improper feeling, or any desire to open wounds long since healed. But the question was, and is, and must always be, one of great interest to the Southern states. There are daily occurrences in relation to the slavery of a portion of the population of the South, calculated to excite alarm; and it is only within a few days past, that a measure introduced on this subject, was, by consent of the mover, laid on the table of the Senate, for the residue of the session. The people of the Southern states are watchful concerning all measures of the General Government touching the subject of slavery; and it is proper that

they should be—their very existence depends upon their being so.

In what manner did the advocates of this restriction claim the power to impose it? I will show by an extract from one of the most celebrated speeches delivered on that memorable question.\* "In what part of the Constitution is this power conferred? It is conferred in that part of the Constitution which authorizes Congress to 'admit new states into the Union;' and, to me, it is perfectly plain, that we need look no further for it."

"The power to admit new states is given to Congress in general terms, without restriction or qualification, and upon every just principle of construction must be understood to confer whatever authority is 'necessary' for carrying the power into effect; and every authority which, in practice, had become incident to the principal power, or was deemed to make a part of it.

"Of late, it has been the fashion to insist upon a liberal construction of the constitution, and its most extensive efficacy has been found in the implied powers it is supposed to confer. All powers are implied, that are 'necessary' for the execution of the enumerated powers, and the necessity need not be absolute; a modified necessity, or high degree of expediency, is sufficient. Whence the power to incorporate a bank? Whence the authority to apply the public treasure to the improvement of the country by roads and canals? Whence the authority to encourage domestic industry, by bounties or prohibitions? Is it to be found in the letter of the constitution? They all rest upon this single position: That an original power having been granted, every other power is implied, which is 'necessary,' or useful, for carrying that power into execution; and this is an inherent essential principle of the constitution, altogether independent of its words."

Such is the derivation of the power to impose the restriction on Missouri. It is in strict conformity with that of the Supreme Court, in the case of the Bank. The latter is made a precedent to the former. The tariff, and the bill under consideration, rest upon the same principles. Can a sound distinction be drawn between them? This question is more particularly addressed to the representatives of those states where slavery is tolerated, who may be friendly to this bill. The more the question is examined, the more plainly will it appear, that, if any one of these measures is constitutional, the others are equally so; and yet what man in the South will admit the constitutionality of the restriction on Missouri?

By a similar course of reasoning, it is proveable that Congress has power to "emit bills of credit." This, as a distinct and independent power, is expressly prohibited to the states. As a distinct and independent power, it is no where conferred on the United States. Nay, the presumption is, that it was intended to be refused, because it was at one period, during the deliberations of the convention, inserted after the power "to borrow money," and then stricken out. We know that Congress has exercised this power, because every Treasury note issued during the late war, was a "bill of credit." Under what grant of power was it done? Under no expressed one, I am sure, and of course it must have been done as "means" (not absolutely necessary, nor indispensable) to the exercise of a power, without which it could not be executed, but as being highly "convenient," "useful," "needful," "conducive to" the powers of "borrowing money," "declaring war," "supporting armies," "maintaining navies," &c. to none of which did the measure bear a more appropriate relationship, than the sedition law did to the power "to suppress insurrection."

In all the cases I have named, Congress have acted;

\* This extract is taken from the speech of Mr. Sergeant, of Pennsylvania. The speeches of Messrs. King, Taylor, and Plumer, and others, occupied nearly the same grounds.

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and, where the measure has been adopted, in my opinion, they have acted without constitutional authority. I now beg leave to suppose a case or two in regard to the powers of Congress.

Has it authority "to make any thing but gold and silver a tender in payment of debts?" This, as a distinct and independent power, is also prohibited to the states, but, as such, is not conferred on Congress. A recurrence to those circumstances of the Revolutionary War which, no doubt, caused the subject of *tender* to be mentioned in the constitution, will support the opinion that the power of making any thing else than "gold and silver a tender in payment of debts," was intended to be denied, by the convention, to both the states and the Federal Government; to the states by positive prohibition, and to the Federal Government, by withholding the grant. Such was the opinion of some of the early expositors of the constitution. Yet, under the liberal principles of construction necessary to support a Bank, internal improvements, a restriction on the states, a sedition law, &c. Congress could exercise such a power. We have only to suppose a state of war, and a consequent disappearance of gold and silver; that "bills of credit," under the name of Treasury Notes, are issued. To make them a tender, is "not prohibited." These Treasury Notes depreciate, and something must be done to maintain their credit, or else their usefulness is destroyed. One of the most obvious "means" (and one which was resorted to during the Revolution) is, to make them a "tender"—Congress being the sole judge of what are "necessary and proper" means, determines that it will be "highly conducive," "needful," "useful," and "appropriate to the end" of preserving their credit, in order to make them available in "maintaining" armies and navies, that they should be received as a "tender in payment of debts." Can the conclusion that Congress has power to make them so, be avoided? On a different rule of construction, no such conclusion could be drawn.

A similar course of reasoning would also confer on Congress a power to pass laws "impairing the obligations of contracts." This, too, as an *independent* power, is expressly prohibited to the states, and is *not expressly* given to Congress. If possessed by the latter, it must be exercised as an *incidental* power. There are many of the enumerated powers, to which, under circumstances of war, similar to those just stated, and under similar principles of construction, it could be made auxiliary, or highly "appropriate" as means.

I will now suppose a case that comes home to myself and my constituents: suppose war declared, and the country invaded. It is necessary to repel the enemy at many points—money is scarce—and the difficulty of enlisting an army, great. In the Southern states are many hardy, able bodied men who are slaves. We know from observation, and the experience of other nations, that such may be made useful and efficient soldiers in an army: could Congress make a law, saying, that every able bodied slave who would enlist into the service of the United States should, at the end of five years, in addition to his pay, be entitled to his freedom? Have they not just as much authority, under this liberal rule of interpretation, to enact such a law, as "necessary and proper" to "raising armies," as they had to pass the laws which I have enumerated, or supposed? The power "to raise armies" is granted "without restriction or qualification." Congress may, in its "discretion," (according to the doctrine of the Supreme Court,) select any "means" which are "appropriate," "needful," "useful," or "conductive to an end," if not forbidden; and as "means" "conductive to," and "highly appropriate" to "raising armies," in their discretion they may authorize the enlistment of slaves. The right to do this is not expressly prohibited to Congress. It may be said that "private property" (and such are slaves) cannot be

"taken for public use without just compensation," as declared in one of the amendments of the constitution. This is true; but, so far from prohibiting, the clause permits the exercise of the power, if Congress will pay for it. Congress will be the judge of what shall constitute "just compensation," and, when they are to determine, after exercising the power, we may easily foretell what it will be. It certainly would not exceed, for each slave, the value of the double bounty, (three hundred and twenty acres) of land promised to the soldiers enlisted just before the termination of the late war; but whether Congress made "just compensation" or not, the evil most to be dreaded in the Southern states, (and that is the instruction of the slave in the art of war, and placing him in a situation to avail himself of his knowledge,) would not be avoided.

It may be said, that the several cases which I have supposed, are all of them extreme cases, from which it will not do to reason. Sir, they are not now more extreme than were the cases of many of the laws which I have mentioned, just anterior to their passage. At the adoption of the constitution, the Bank law itself was an extreme case, inasmuch as it appears, from the Journal of the convention, that a power to "grant letters of incorporation" was refused. The sedition law, and the restriction on Missouri, might, with equal propriety, have been called extreme cases. The measure of making roads, now under consideration, would have been called an extreme case. The bitterest opponents of the constitution never thought this reserved power of the states would be infringed. Even, Mr. Henry, whose imagination was filled with apprehensions concerning the exercise of constructive powers, seems to have had no fears that the power of "making roads," would be assumed by the Federal Government. (See his speeches in the Virginia convention.)

Sir, I will observe, in conclusion, that we should pause before making the final determination to adopt this measure. Is it not at least doubtful, whether Congress possesses the power? and, if doubtful, let us look well to the consequences before we act.

When I see the spirit which is manifested in many parts of the Union, on some of the topics to which I have adverted, my fears are excited. If Congress wish to exercise the power of constructing roads and canals, and the people are willing that they should, (as has been contended) is it not better to apply for a delegation of power, than, in a doubtful case, to establish a principle which may draw after it such important consequences? The constitution has provided the means by which the authority can be obtained, in the shape of an amendment, and the people will not be unwilling to confer it, if there is no danger in it.

Mr. RUGGLES, of Ohio, followed Mr. COBB. He said the object of the bill before the Senate, was to appropriate one hundred and fifty thousand dollars for the continuation of the Cumberland Road from Wheeling in Virginia, to Zanesville, on the Muskingum river. At some future time, said Mr. R. when the resources of the country will justify it, there can be no doubt, but Congress will make appropriations to continue the same road to the Mississippi river, at some point near to, or opposite St. Louis. There is no subject of Internal Improvement, that presents as strong claims upon the consideration of Congress as this. It is one to which the attention of the government has been long and ardently directed. This great work was commenced in 1806, at Cumberland, in Maryland, and has received the patronage and support of three successive administrations, and is now admitted, by all sound politicians, who look to the future prosperity and perpetuity of this Union, as an object of the first consequence. In discussing this subject, Mr. R. said, we ought to discard all local and personal considerations, and treat of it solely in a national point of view. If mere local and personal considerations are

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to govern the deliberations of Congress, the great and permanent interests of the nation would be disregarded, the most valuable improvements remain untouched, and the great principles of legislation settle down into selfishness, and a contest for sectional benefits. Higher and nobler views ought to govern this Senate.

Mr. R. said, he would not go into the discussion of the constitutional question, whether Congress had a right to appropriate money for internal improvements, to make roads and canals. That question he had considered as long settled by both Houses of Congress after the most able and solemn arguments. The gentleman from Georgia, (Mr. Cobb,) has, with great ability, given us his sentiments on that point, attempting to show that Congress has not the power to appropriate money to make roads and canals, but he had entirely failed to convince him of the correctness of his positions. This system had been in operation for twenty years; the country had acquiesced in it; the soundest heads and ablest talents of the nation had decided in its favor; the venerable patriot Jefferson had given to it the sanction of his great name and influence; he may be justly styled the father and patron of the Cumberland road. The agitation of the constitutional question at every session would result in no good, but might be productive of great evil to the nation; there is a point on all questions, beyond which we ought not to go, where discussion and opposition must end. Mr. R. said, he hoped we had arrived to that point, and that the only question now would be, How can we best improve the condition of the country, by a wise application of its resources?

Whatever might be the opinion of gentlemen on the constitutional question, on the right and power of Congress to appropriate the funds of the nation to make roads and canals in the United States, generally, there could be but one opinion in relation to the present measure. This question stands on distinct and different grounds altogether. It arises out of a solemn and deliberate contract between the General Government, and the states northwest of the Ohio River, by which the former are bound to execute this work. Congress has received, and is still continuing to receive, a valuable consideration: an equivalent for the money now proposed to be expended. If it fails to fulfil its engagements, it may justly be accused of violating its contract with the Northwestern States. What are the facts in relation to this subject? When those states were admitted into the Union, the Congress of the United States, by their several acts, authorizing the people to form for themselves a constitution and state government, agreed, that if the states would not tax the public lands for five years after they had been sold, that five per cent. arising out of the nett proceeds of the sale of those lands, should be appropriated for the purpose of making roads; three per cent. of which was to be laid out within the states by their respective legislatures, and two per cent. by the authority of Congress, in making a road leading to those states. Let us examine more particularly, said Mr. R. into the real state of the question, and inquire what has been the practice of the General Government for twenty years past.

Ohio was the first state that was admitted into the Union upon this principle. This took place in 1803.—When the two per cent. which had been reserved for making a road leading to that state, had accumulated so as to justify an expenditure, Congress passed a law in 1806, authorizing commissioners to be appointed to survey and lay out a road from Cumberland, in Maryland, to the state of Ohio. After the survey and location were completed, annual appropriations were made by Congress for constructing the road, until it was finally completed from Cumberland to Wheeling, on the Ohio river, a distance of one hundred and thirty-five miles. This road lies entirely within the states of Maryland, Pennsylvania, and Virginia. Not one rod is within any of

the new states. The contract with the state of Ohio is fulfilled; the road has been made to the boundary of that state; the two per cent. that has arisen, and will hereafter arise, has all been expended. Ohio, therefore, has no further claim upon Congress for any portion of the two per cent. which may be produced by the future sales of lands in that state.

It is but justice to admit, said Mr. R. that a greater sum of money has been expended in making the Cumberland Road to the Ohio River, than the two per cent. would amount to in the state of Ohio. This excess must be considered as a direct appropriation from the treasury, for the accomplishment of a great national object, in which the whole Western country had a direct and beneficial interest. All the states bordering upon the Mississippi, as well as the Ohio River, derive important advantages from the execution of this work. It is also equally important to the Atlantic States, being the usual channel of intercourse, both commercial and personal, between the East and the West. It serves as a common bond of union to connect various and distant portions of the country together.

There is strong and irresistible evidence that it never was the intention of Congress that this road should find its limit on the left bank of the Ohio River, but that it should be continued and made to the banks of the Mississippi. Congress has followed the same principle on the admission of the new states beyond Ohio, that was adopted in relation to that state. When Indiana, Illinois, and Missouri, were received into the Union, as members of this great confederacy, it was expressly stipulated, that two per cent. of the nett proceeds of the sales of public lands within their limits, should be appropriated under the authority of Congress, for making a road leading to those states. Under this engagement, they have a right to expect, that Congress will go on, appropriate the money, and execute the work. Preparatory measures have already been adopted on this subject. The present bill, therefore, is only in pursuance of a general plan, already commenced, and which has in part been carried into effect. By the act of May, 1820, commissioners were appointed to survey and lay out a road from the right bank of the Ohio River, opposite Wheeling, to the left bank of the Mississippi, near to, or opposite, the town of St. Louis, in Missouri. Those commissioners, in the execution of the duties assigned them, commenced their labors on the Ohio River; and, in the first instance, ran a straight line to the Mississippi. The ground was found to be more broken and uneven than they had anticipated, but presenting no insuperable obstacles to the location of a good road. The commissioners state, that the straight line run by them, passes a little south of the seats of government in Ohio, Indiana, and Illinois; but, that the distance will not be increased more than three miles in the whole route, if the road should be thrown north so as to embrace those points. This difference in distance is so inconsiderable, and the objects to be obtained, by passing through Columbus, Indianapolis, and Vandalia, are of such vast importance, that there can be no hesitation as to the policy of the road taking that course.

There are several other towns of considerable size, which lie in the range of this route, some of which ought to be mentioned. Zanesville, which is situated on the Muskingum river, eighty miles west of Wheeling, has a fair claim to become a village of the first importance.—It is strongly marked by nature for a place of great wealth and population. Situated at the falls of the Muskingum, it can command water power to any extent.—Valuable mills, machinery, and manufactories, are already in operation. There are in its vicinity inexhaustible beds of coal and iron ore, which will enable its citizens to manufacture iron and castings, to supply all the wants of the country. It is believed that no situation on the Western waters will furnish as eligible a situation, and



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offer as great advantages for the establishment of an armory as this. The town of Dayton, on the western borders of the state, also lies in the line of the contemplated road. Nature has also been liberal in bestowing upon its inhabitants the means of wealth, which will contribute to its future greatness and prosperity. There are several other towns and villages, through which the road will pass, whose interests will be promoted by the completion of the work. In short, the whole country will feel its beneficial effects.

There is one consideration more which ought not to be passed over without notice. The legislature of Ohio, at their present session, have passed a law authorizing a canal to be constructed from Lake Erie to the Ohio River, and have provided means for its completion. This canal will intersect the road near the centre of the state. The execution of two such great works of utility, will confer immortal honor upon the state and nation, and give to posterity an exalted opinion of the enterprise and patriotism of the present generation.

Mr. R. said, he would now attempt to show to the Senate, and he believed he could do it satisfactorily from substantial evidence, that no more money would be required to make the road from Wheeling to St. Louis, than will arise from the two per cent. fund, when the public lands shall all have been sold in the states of Indiana, Illinois, and Missouri. If this be a fact, will it be asking too much of Congress to anticipate that fund by moderate and reasonable appropriations from year to year, when the finances of the country will admit of it? There is now money in the Treasury which can be safely applied to this purpose, and which, if it is not, will be entirely useless to the nation. Mr. R. said he had received from the Commissioner of the Land Office, an estimate of the whole quantity of unsold land in the states of Indiana, Illinois, and Missouri, and an estimate of the two per cent. that will arise from the sales of those lands. These calculations are founded upon the supposition that the lands will be sold at one dollar and twenty-five cents per acre, the minimum price. They can never be sold for less, and it is very probable that a considerable proportion of them will sell for more than that sum. The Commissioner of the General Land Office states, in the document which has been furnished from that office, that the total quantity of land in the state of Indiana, including unceded land from the Indians, is 20,397,826 acres, which, at the price of \$1 25 per acre, will amount to \$25,497,282, and two per cent. on that sum will make \$509,945. In the state of Illinois, there is, of unsold land, 29,847,940 acres, which, at \$1 25 per acre, will amount to \$37,309,925, and two per cent. on that sum will make \$746,198. In Missouri, there is, of unsold land, 36,241,352 acres, which, at \$1 25 per acre, will amount to \$45,301,690, and two per cent. on that sum will make \$906,033. The aggregate amount of acres, therefore, in the three states, remaining to be sold, is 86,487,118, which, at the price of \$1 25 per acre, will amount to \$108,108,897, and two per cent. on that sum will make \$2,162,176. This last sum belongs to the three states above mentioned, by solemn contract, and is applicable to the making of a road leading to and through them to the Mississippi river. This sum, it will be seen by the following estimates and calculations, will be sufficient to complete the road the whole distance.

Mr. R. said he would now submit an estimate to the Senate, of the expense of making this road from Wheeling to the Mississippi river. This estimate is furnished by Mr. Shriver who was one of the commissioners appointed in 1820, to survey and locate it, and is well acquainted with the whole ground over which it passes. The utmost reliance may be placed upon this statement, from the fact of his having been employed by the Government for superintending the making of the Cumberland Road, from its first commencement, until it was completed to the Ohio river; having, therefore, acquired as much practical information upon this subject, as

any other man in this nation, Mr. Shriver thus estimates the expense of making the road. The whole distance is 500 miles. The first section, from Wheeling to Zanesville, is about 80 miles. The expense for making it, including bridges, and necessary side walls, is estimated at \$450,000, which is a little more than \$5,500 per mile. The road to be made similar, in all respects, to that on this side of the Ohio river. It is to be remarked, that this section will be the most difficult and expensive, as the road passes through a very uneven country, the ravines being deep, and the hills bold and abrupt. The second section, from Zanesville to Dayton, a distance of about — miles, is estimated to cost \$550,000. The eastern part of this section, and more than one half of it, can be made of broken stone, like the former, and the remainder, or western part of this section, must be made of gravel, of which there is a great abundance, and of an excellent quality. This section of the road can be made much cheaper than the first, owing to its passing over a more level and even surface, and requiring less expense for bridges. The third section of the road, from Dayton to the Mississippi river, a distance of 220 miles; the expense of making it cannot be estimated as accurately as the two former sections. When this part of the road was surveyed by the commissioners, there was considerable snow on the ground, which prevented them from examining it as particularly as they could have wished, and ascertaining the quantity and kind of materials with which to make it. Mr. Shriver, however, states, that this section of the road can be made without paving it, and without stone bridges, for \$2000 per mile, which will cost, from Dayton to Mississippi river, \$640,000. It is, however, believed that, when this section of the road becomes more settled and better known, that stone or gravel will be found in sufficient quantities to make the road, the whole distance, of a permanent and solid character. From the foregoing statements and remarks, it will appear that the whole expense of making the road from Wheeling to the Mississippi river, will amount to \$1,640,000. From the statement before exhibited, from the Commissioner of the Land Office, the two per cent. arising from the sales of land in the states of Indiana, Illinois, and Missouri, and applicable to this object, amounted to \$2,162,176, leaving a balance of \$522,176, in favor of the two per cent. fund. Mr. R. said, the flattering result to which he had arrived, was no visionary dream, no fanciful speculation—it is produced by the facts exhibited by the Commissioner of the Land Office, and by the estimates and calculations of another of your officers, who has been many years in your employment, and of great experience and accuracy. There can be but little doubt that time will test their perfect correctness. From so interesting and gratifying a view of this subject, can it be considered as asking too much of this Senate to pass the bill under consideration? It has passed the House of Representatives by a large majority—shall its progress be arrested here, the great object be defeated, and the hopes and wishes of millions of your fellow-citizens in the West, who are anxiously watching your deliberations on this subject, be disappointed and blasted? It is to be hoped that such will not be the result. The case presented is of the strongest character—one not only founded upon solemn contracts, but upon the great principles of justice, mingling in itself political considerations for the permanent union of these States, of the highest importance. Let, then, this great work go on and be completed; unite the East and the West by the strongest possible ties; let their citizens be no longer strangers, or be considered as having distinct and separate interests. Complete this road; the difficulties of personal and commercial intercourse will be broken down; distance will be annihilated; and the shores of the Mississippi will be brought within the neighborhood of your capital.

The object of making this road is not similar to that of the Roman Emperor, who made the Appian way, to

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fa lilitate the march of his armies to keep in subjection his conquered provinces at the point of the bayonet—but to accelerate the march of intelligence, to wield the moral force of the nation, and bind in one harmonious union, the feelings and affections of this great people.

The commercial and political advantages that the nation, and particularly the Western country, has derived from the construction of the Cumberland Road, have been immense. In order to form some correct idea upon this subject, Mr. R. said he would submit the following calculations, selected from a valuable work, published the last year by Mr. James Shriver, on the Ohio and Chesapeake Canal; these calculations are furnished by a respectable mercantile house in Wheeling, for the year 1822. During that year this house had consigned to it 1081 wagons, laden with merchandise, averaging about 3500 pounds each, the carriage of which amounted to \$90,000. There are, besides this house, five other commission stores in Wheeling; estimating that each of these received two-thirds of the quantity of goods consigned to the other, it shews that 4681 wagons of merchandise were received at that town during the year mentioned. This number, at the rate of \$90,000 for 1081 loads, gives for the cost of transporting merchandise from Baltimore to Wheeling, the sum of \$390,000 during one year. Besides this, it is estimated that every tenth wagon at least passes through that town to the West without unloading at all, which would considerably increase the estimate.—These wagons generally take in return loads of the produce of the country, such as flour, whiskey, hemp, tobacco, and various other articles which are carried to the Atlantic cities for consumption and exportation. It is admitted on all hands, that the making of the Cumberland road has reduced the price of carriage more than one half, by which a clear saving is made to the people of the East and the West, of at least \$300,000 a year, which, in six years, will amount to the price of making the road. This result, so auspicious to the interests of the people, and the internal trade of the country, is a source of just pride and exultation, and cannot but convince the most sceptical of the great utility of such national works.

There is another point of view equally interesting, in which this subject may be considered. Before the road was completed, the mail was seven days in travelling to the Ohio river; it now passes the same distance in three days. The rapid diffusion of intelligence is the very soul of liberty, and the life of a republic; close these avenues, and the extremities wither, waste, and perish. Extend this road to the Mississippi, as contemplated by the bill, and your laws will be read on the banks of that mighty stream within eight days from their passage. Your deliberations will be sought after with increasing interest, and those feelings which bind us together as a nation, become more strong and permanent. Since what has happened within a very few years, in the multiplication of our numbers, and the steady march of improvements, it will neither be considered romantic or visionary, to state, that this road will be continued at no very distant day to the western border of your continent, connecting the tide waters of the Atlantic with the distant shores of the Pacific.

The people of the West, nay of the whole interior, have a right to ask and expect a just participation in the expenditure of the public funds. They contribute in every shape and form, in common with their Atlantic brethren, to fill your Treasury. Let the national government, then, not consider us as a distinct and separate class of people from the members of this powerful confederacy. Give us some evidence, that you exist as a kind and parental government; erect some monument from the common funds of the nation, beneficial to our great interests and prosperity; improve the navigation of our magnificent streams; break down the mountains that interpose such formidable obstacles to the harmony

of the Union; and build permanent and solid roads to aid the increasing and commercial intercourse of the country.

What has been done to promote the prosperity of the East? Almost the whole of the revenue is spent in that quarter. Out of fifteen millions of dollars scattered annually among the people, not one million is distributed in the West. Look at your expensive and magnificent fortifications, erected on the whole Atlantic coast, for the protection of your cities and the security of your people. Vast sums are annually expended in building sea-walls, improving harbors, and in placing buoys and beacons for the benefit of commerce. Light-houses are erected and supported, at great expense, to guide the seamen among the shoals and rocks, and ensure their safety from one part to another. Congress are appropriating annually three or four millions of dollars for increasing, repairing, and supporting the Navy, to protect our commerce and navigation upon the ocean in every part of the world. To all these expenditures, so far as they were necessary, Mr. R. said he did not object; they are directly for the benefit of our Atlantic brethren, and indirectly for the benefit of the whole nation; for whatever advances the wealth and prosperity of any particular portion of the Union, is more or less advancing the interest of the whole. If so great a portion of the revenue is annually appropriated to facilitate and protect our commerce with foreign nations, is it any thing more than naked justice to ask for small appropriations to facilitate and open a commerce with the interior of our Union? To aid the citizens of the West to bring the fruits of their labor and the produce of their farms to the sea board? Is the water's edge to be the dividing line between protection and neglect? Such discriminations are odious and unjust; a wise and liberal policy ought to be pursued, such as will distribute equal benefits to all.

Mr. R. said, he would not disguise the solicitude he felt for the passage of this bill; his constituents had a deep and lasting interest at stake; he should be unwilling to meet them on his return home, and tell them the sad story of defeat. It has been clearly shown, that the two per cent. fund will be abundantly adequate to make the road to the Mississippi river, and this the Western states are fairly entitled to by solemn contract. All that is now asked, is a moderate anticipation of that fund, which will be all repaid in the course of a few years. Let the bill then be passed, and the road made, and give to the East and the West, the present and all after generations, the benefit of this great work.

Mr. LLOYD, of Massachusetts, said, as frequent allusion had been made in the debate to the grant for the preservation of certain islands in Boston harbor, the object of which seemed not to be distinctly stated, although he was too much indisposed to fight a battle even once, willingly, yet, to fight it twice over, he would again explain what that grant was for. It was for the preservation of an island, which was in mid-channel, and served as a barrier or shelter to a very excellent roadstead at the entrance of the harbor, for vessels of war of the United States, and the channel of which was filling up by the wasting of the island, which formed also a commanding situation for a fortification in time of war, to secure it for which purpose, with the head land opposite, were among the objects of the grant, and they were important; but it was the apparent good will with which the appropriation was agreed to, which was, at the time, and continued to him to be, the most grateful part of it.

The question was then put on the indefinite postponement of the bill, and decided in the negative, as follows:

YEAS.—Messrs. Barbour, Bell, Branch, Chandler, Clayton, Cobb, Dickerson, Elliott, Hayne, Holmes, Me. Holmes, Miss. King, Alab. King, of N. Y. Knight, Macon, Mills, Tazewell, Van Buren, Williams—19.

NAYS.—Messrs. Barton, Benton, Boulogny, Brown, D'Wolf, Eaton, Edwards, Findlay, Jackson, Johnson, Ken, Johnston, Lou. Kelly, Lauman, Lloyd, Mass. Low-

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rie, Milvaine, M'Lean, Noble, Palmer, Parrott, Ruggles, Seymour, Smith, Talbot, Thomas—25.

On motion of Mr. HOLMES, of Maine, (who wished time to examine more particularly the statements and calculations submitted by Mr. RUGGLES,)

The Senate adjourned.

#### HOUSE OF REPRESENTATIVES.—SAME DAY.

##### VIRGINIA MILITIA CLAIMS.

On motion of Mr. P. P. BARBOUR, the House then resumed the consideration of the bill providing for the payment of interest to the state of Virginia.

Upon this bill a debate arose, in which Messrs. WOOD, SHARPE, P. P. BARBOUR, BARTLETT, WILLIAMS, of N. C. FORSYTH, NEALE, WEBSTER, ALEXANDER, ISACKS, and REYNOLDS, took part: when the *previous question* was required by Mr. WICKLIFFE, and was decided in the affirmative, by Yeas and Nays, 88 to 80.

The main question was then put, viz: *Shall the bill (without amendment) now be ordered to be engrossed for a third reading?* and decided by Yeas and Nays, as follows:

YEAS.—Messrs. Abbot, Alexander, of Va., Alexander, of Tenn., Allen, of Tenn., Allison, Archer, Bailey, P. P. Barbour, J. S. Barbour, Bassett, Beecher, Blair, Brent, Buchanan, Burleigh, Calhoun, Cambreleng, Campbell, of S. C. Campbell, of Ohio, Carter, Clark, Collins, Condict, Conner, Cook, Crafts, Crowninshield, Cuthbert, Eddy, Edwards, of N. C., Findlay, Floyd, Foote, of N. Y. Forward, Frost, Fuller, Gatlin, Gist, Govan, Gurley, Hall, Hamilton, Harvey, Hayward, Herrick, Hooks, Houston, Ingham, Isacks, Jenkins, Johnson, of Va., J. T. Johnson, Kent, Lathrop, Lee, Leftwich, Leitcher, Lincoln, Litchfield, Livingston, Long, M'Arthur, M'Coy, M'Kean, M'Kim, M'Lane, of Del., M'Lean, of Ohio, Mangum, Mallory, Marvin, Matson, Mercer, Metcalfe, Miller, Mitchell, of Penn., Mitchell, of Md., Moore, of Alab., Neal, Nelson, Newton, Olin, Outlaw, Owen, Patterson, of Penn., Patterson, of Ohio, Plumer, of Penn., Poinsett, Rankin, Reed, Reynolds, Richards, Rives, Rose, Sandford, Saunders, Scott, Sloane, Arthur Smith, Alexander Smyth, Wm. Smith, Spaight, Spence, Standifer, A. Stevenson, J. Stephenson, Stewart, Storrs, Swan, Tattnell, Ten Eyck, Thompson, of Penn., Thompson, of Geo., Thompson, of Ken., Tucker, of Va., Tucker, of S. C., Tyson, Udree, Vance, of Ohio, Van Rensselaer, Vinton, Warfield, Wayne, Webster, Whittlesey, Wickliffe, Williams, of Va., Wilson, of N. C., James Wilson, Henry Wilson, of S. C., Wilson, of Ohio, Wood, Wright—132.

NAYS.—Messrs. Allen, of Mass., Baylies, Barber, of Conn. Bartlett, Breck, Brown, Gady, Cocke, Craig, Culpeper, Cushman, Day, Dwinell, Edwards, of Penn., Ellis, Foot, of Conn., Hayden, Herkimer, Hobart, Hogeboom, F. Johnson, Lawrence, Little, Longfellow, Martindale, Morgan, O'Brien, Sharpe, Sibley, Sterling, Stoddard, Taylor, Vance, of N. C., Van Wyck, Whitman, Williams, of N. Y.—36.

So the bill was ordered to be engrossed for a third reading to-morrow.

#### FORTIFICATIONS IN NORTH CAROLINA, &c.

The House then proceeded to consider the Senate's amendments to the appropriation bill for fortifications.

The question being on the first amendment of the Senate, inserting the following:

"For a fort at Beaufort, in North Carolina, \$30,000.

"For forts at Cape Fear, \$50,000."

Mr. FOOT, of Connecticut, said a few words in opposition to the amendment.

Mr. SPAIGHT observed, in support of the amendment, that he was sorry that the gentleman from Conn. (Mr. Foot,) had thought it his duty to oppose the ap-

propriation. This point was among the first designated for fortifications, and a fort was erected, either during the administration of Mr. Jefferson, or at a period antecedent; he did not now recollect. Its importance is such as to claim this attention. Beaufort is a port having a good harbor, and affording an inlet of greater depth of water than any other in the state, with the exception of that of Cape Fear. The depth of water is understood to be eighteen feet. There is now an inland communication from Norfolk to that port, through the Sound, and when the canal connecting the waters of the Neuse and Newport rivers, which is now opening under the authority of the state, shall be completed, a new facility will be given to the inland navigation; and when the Delaware and Chesapeake Canal shall be cut, there will be an inland communication from the Delaware to Beaufort. This place was a rendezvous for the privateers during the war; there they brought their prizes, and goods were conveyed from that point to the North and the South. The occupation of this point by an enemy, in time of war, would be a great annoyance to our commerce. It would cut off the commercial communication of those parts of the Union. Its harbor would be advantageous to them.

Mr. COCKE opposed the amendment. If the statement of the gentleman from North Carolina was correct, if the waters of that state were so shallow, and there was so great a danger of storms that no enemy's fleet dare to lie there, there would be little need of fortifications. The House had been told of a general system of fortification, in which the different works were divided into three classes. He had nothing to guide him in deciding to which class the forts now proposed belong. There were no surveys, and the House was called on, at the close of the session, to make an appropriation for this object, while the Secretary of War has declared that no Engineer can be spared to perform the duty of superintending the building of the fort. No injury would result from delay, &c.

Mr. SAUNDERS, of North Carolina, spoke in reply. The objections now urged, were the same as had been advanced when he had moved this same measure in the House. The information with relation to it had since been submitted to committees of the Senate, and that body had approved the measure. The gentleman from Tennessee objects to it as forming no part of the general system. But the Secretary of War expressly says, that it does form a part of that system. If no Engineer can be spared, then the money will not be drawn, and so no harm can well arise. Though the fort might not be begun, materials at least could be collected for beginning it. He presumed some officer could be spared in the course of the year.

Mr. FOOT, of Connecticut, agreed with the gentleman last up, that if the appropriation was made, somebody would be found to spend the money. The Department of War would consider this as their duty. He had supposed that the state of North Carolina would have been one of the last to ask for fortification, when the events of the last war, and the attacks upon the different states, were considered and compared. But his objections applied to the general policy. To what point was the force of the enemy ever directed, but to those where a fort was erected? As many forts as were erected, so many points would there be to invite attack. He was, therefore, opposed to erecting fortifications at all, unless at a few points where very great interests were exposed.

Some further conversation took place between Messrs. COCKE and SAUNDERS; when Mr. M'LANE, of Delaware, took a general view of the present state of our system of Fortifications, which, he contended, could not now be abandoned, and the prosecution of which included the points at which these forts were proposed to be built. So far was it from being correct that the

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House had no information to govern them, that there would be detailed estimates from the War Department, going down to the number of loads of stone that would be required to build the forts, and the number of men to man them; these fortifications were necessary to the protection of North Carolina, and were quite as proper as those of Boston, Providence, New York, or in the Chesapeake.

There was no objection on the score of means, and it was always necessary, when a fort was about to be built, to appropriate at least a year beforehand, by way of preparation. This course had always been pursued, &c.

Mr. M'COY opposed the amendment; he could never consent, while Dauphin Island and Fort Washington stared him in the face, to go on to appropriate, until he knew with certainty, that the fort about to be built was needed, and would be useful. In the former case, after voting away \$300,000 on estimates by skilful Engineers, Congress had made the discovery, that the fort would be of no use; and, as to Fort Washington, it had now been found necessary to build another fort to protect it.

Mr. MANGUM, of North Carolina, felt assured that any gentleman who would inspect a map of the country, must perceive the necessity of some fortification on the coast of North Carolina. He believed that information was called for, only because gentlemen had not duly attended to that which had been laid before the House. He did not rise to enter into the general argument, but to express his admiration of the principles avowed by some of the gentlemen who were opposed to the appropriation. That admiration was so great that he could not sufficiently express it. How could he sufficiently admire the vigilance of the gentleman from Tennessee, who, with sleepless eye, ever sits like an incubus on the Treasury box, holding a drawn sword in his hand! How could he enough admire the wise and sage maxims of the gentleman from Connecticut. Yet he feared, that, if the House should yield to the arguments of those gentlemen, that, in the matter of fortifications, not only the Government, but the whole nation, had been quite in the wrong. In the one case, we are told that not a dollar is to be wrung from the iron chest of the people without a struggle; and on the other, that not a fortification must be erected on the coast, because, forsooth, it will attract the enemy! This was broad doctrine; and, if it was entitled to that estimation in which those gentlemen no doubt held it, the Government must be greatly indebted for the new lights which they have discovered. He always felt humbled when he came before this House to ask any thing for the state which he had the honor to represent: yet he believed that every gentleman of the House, (the gentleman from Tennessee always excepted,) would allow that the state had not asked from the Government more than her due proportion. He asked if North Carolina was not entitled to some fortification, while, at the South, Government was building forts in a wilderness so situated, that even if the enemy took them, they would have to march one hundred miles through mosquitoes and wild beasts, before they could find any men to attack. He would not descant on the old and worn out subjects so often urged upon the House. He would not weary it with describing the patriotism which North Carolina had displayed, nor say how close it hugged the Union. He would only observe, in conclusion, that, though one of the oldest states in the Union, it had rarely come before Congress in the attitude of a petitioner.

Mr. NEWTON, (Chairman of the Committee of Commerce,) observed, that all the coasting trade of the Union, and all other trade which passed from North to South, had to pass by this coast. That, by placing competent fortifications upon it, the Government would save immense property. The Sounds on that coast

would, in case of war, convey all the materials of our manufactures from the Southern States, and, unless they were defended, our coasting trade might, at any time, be cut off.

After a few more observations from Messrs. COOK and SPAIGHT, the question was taken on the Senate's amendment, and carried—ayes 82, noes 33.

The second amendment of the Senate, which consisted of the following proviso respecting certain islands in Boston Harbor, viz: "Provided, however, That the right of soil of said islands shall be first vested in the United States;" was agreed to without opposition.

The last amendment of the Senate proposes to insert, at the end of the bill, the following: "For a school of practice for Light Artillery at Fortress Monroe, \$9,940."

After having been explained and advocated by Mr. HAMILTON, on the grounds stated in our report of a former debate on this subject, this amendment was opposed by Mr. VANCE, of Ohio, who objected to the appropriation as leading to other and great expenses, and not needed at present.

Mr. HAMILTON spoke in reply, vindicated the economy and usefulness of the measure, and earnestly pressed its adoption by the House.

When the question being taken, the amendment was disagreed to by a large majority.

#### INDIAN ANNUITIES, &c.

The House then proceeded to consider the Senate's amendments to the additional Military Appropriation Bill, which consisted of the following clauses:

"For the payment of the annuity to the Sock and Fox tribes, as provided for by the third article of the treaty with those tribes, dated the 4th August, 1824, 1,000 dollars.

For do. to the Ioway tribe, 500 dollars.

For payment of 500 dollars to each of the four head chiefs of the Quapaw tribe, 2,000 dollars.

For payment of the annuity to that tribe, 1,000 dollars.

For the purchase of provisions for six months, 15,372 dollars.

For furnishing facilities for the transportation of said Indians, 1,000 dollars.

For the pay of a sub-agent as interpreter, to reside among them, 500 dollars.

For the payment of annuities to the Choctaws, and an annuity to Robert Cole, 12,150 dollars.

For the payment of claims of the Choctaw nation, for services in the Pensacola campaign, and other claims of the same tribe, 16,972 dollars 50 cents.

For the salary of the Agent, 1,500 dollars.

For carrying into effect the provisions of the ninth article of said Treaty; the provisions of the third article, for the survey and sale of the 54 sections of land therein referred to; and for running the line defined in the first article; and any other expenses arising out of the execution of said Treaty, 10,000 dollars."

Mr. FORSYTH objected to concurring with these amendments, until they had been submitted to the revision of a committee of the House. He thought it an objectionable mode of legislation to appropriate money merely at the suggestion of a Department, that certain treaties had been entered into. A committee ought to inquire whether the sums here mentioned are required by the treaties referred to, &c.

Mr. McLANK replied, and on his motion the committee rose, and reported both bills. The House agreed to the two first amendments of the Senate to the bill for fortifications. The last amendment, viz: for a school of practice for Light Artillery, being under consideration—

Mr. NEWTON, advocated its adoption, as necessary

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to perfect the education of the officers of our little army, and prepare them for actual service, when required. He alluded to the disasters of the last war as teaching an impressive lesson on this subject. The expense was trifling in comparison with the object.

The House concurred in the vote of the committee, rejecting the amendment, by a very large majority.

Mr. FORSYTH moved the commitment of the amendments to the Additional Military Appropriation Bill, to the Committee of Ways and Means.

Mr. M'LANE, chairman of that committee, opposed the recommitment as unnecessary, and moved that the bill be laid on the table; which motion was carried.

And then, at a late hour, the House adjourned.

#### IN SENATE—THURSDAY, FEBRUARY 24, 1825.

Mr. NOBLE submitted the resolution of the General Assembly of Indiana, disapproving the amendment proposed by the state of Georgia to the Constitution of the United States, on the subject of the ingress of people of color into the several states of the Union; which was read.

#### CUMBERLAND ROAD.

The Senate resumed, as in committee of the whole, (Mr. KING, of Alabama, in the Chair,) the bill appropriating 150,000 dollars for the extension of the Cumberland Road.

Mr. HOLMES, of Maine, for the reasons which he submitted, moved to strike Illinois and Missouri from the bill, so as to confine it to the fund growing out of the compacts with Ohio and Indiana only.

On this motion a good deal of debate took place, in which Messrs. HOLMES, of Maine, NOBLE, SMITH, CHANDLER, HOLMES, of Miss. TALBOT, MACON, SEYMOUR, EATON, and LLOYD, of Massachusetts, took part.

The question was decided against the amendment, by yeas and nays, and as follows:

YEAS.—Messrs. Bell, Branch, Chandler, Clayton, Dickerson, Findlay, Holmes, of Maine, Holmes, of Miss. King, of N. Y. Knight, Macon, Tazewell—12.

NAYS.—Messrs. Barbour, Barton, Benton, Boulogny, Brown, D'Wolf, Eaton, Edwards, Elliott, Hayne, Jackson, Johnson, Ken. Johnston, of Lou. Kelly, King, of Alabama, Lanman, Lloyd, of Mass. Lowrie, M'Ilvaine, M'Lane, Mills, Noble, Palmer, Parrott, Ruggies, Seymour, Smith, Talbot, Taylor, Thomas, Van Buren, Van Dyke, Williams—35.

Mr. SEYMOUR then, conformably to the views he had previously suggested, moved the addition of the following proviso to the bill:

"Provided, This act do not take effect until the consent of the states of Illinois and Missouri to this appropriation of the said funds be expressed by act of their respective Legislatures."

The question was taken on this amendment, without debate, and decided in the negative; yeas 12.

The bill was then reported to the Senate without amendment, and ordered to a third reading by the following vote:

YEAS.—Messrs. Barton, Benton, Boulogny, Brown, D'Wolf, Eaton, Edwards, Holmes, of Maine, Jackson, Johnson, of Kentucky, Johnston, of Louisiana, Kelly, King, of Alabama, Knight, Lanman, Lloyd, of Mass. Lowrie, M'Ilvaine, M'Lean, Noble, Palmer, Parrott, Ruggies, Smith, Talbot, Taylor, Thomas, Van Dyke—28.

NAYS.—Messrs. Barbour, Bell, Branch Chandler, Clayton, Dickerson, Elliott, Findlay, Hayne, Holmes, of Mississippi, King, of New York, Macon, Mills, Tazewell, Van Buren, Williams—16.

#### DELAWARE AND CHESAPEAKE CANAL.

The Senate next took up the bill authorizing a sub-

scription on behalf of the United States, of 1,500 shares of the capital stock of the Delaware and Chesapeake Canal.

Mr. TAZEWELL moved the adoption of two additional sections to the bill, embracing provisions for authorizing a subscription, on behalf of the Government, of 400 shares of the capital stock of the Dismal Swamp Canal Company, (which connects the waters of the Chesapeake with those of Albemarle Sound.)

Mr. TAZEWELL, in offering his amendment, made a few remarks to shew the importance of the work which it was his wish to aid—the necessity of such aid to make it what it ought to be, &c. He drew a parallel between the two works to shew their similarity and identity of purpose and effect—the first, opening an interior communication between the Delaware and Chesapeake waters—the other connecting the Chesapeake and the waters of North Carolina; and thus making an immense extension of the benefit which the Delaware Canal would effect. This is in part the substance only of his remarks—the speaker being indistinctly heard by the reporter.

Mr. BROWN thought it was his duty to oppose this amendment, because the present was not, in his opinion, the proper time to urge it. The gentleman from Virginia (Mr. TAZEWELL) had professed himself opposed to the grand connection of the whole coast of the Atlantic by internal navigation, which struck his (Mr. B's) mind as a most magnificent and useful project, and one which was of the utmost importance to the nation—they would be sure to feel the benefits of it whether they were at peace or war—he declared he had not the least objection to assist the Canal Company of Virginia—he considered that Canal a most important link in the great chain; but to introduce it at this time would defeat the object which this bill contemplated, at least for the present year.

The Chesapeake and Delaware Company wanted the sum now asked for, to complete the Canal which had already been begun. The first act incorporating this Company was passed in the year 1799; it had received the sanction of the different States through which it passed, and had attracted the attention of the most enlightened statesmen from the time of the adoption of the constitution. This chain was recommended by Mr. Gallatin, in his able report, which alone would be sufficient to immortalise his memory.

It was presumed by those who are well acquainted with the localities, and the course the Canal has to pass, that this would be good stock—stock which the United States could realize when they thought it necessary to assist in the extension of further improvements, probably without any loss.

The question of the constitutionality of appropriating public money for these objects, had been, Mr. B. said, so thoroughly discussed by men so much more able than himself, that it was perfectly unnecessary for him to touch upon that topic—it would be sufficient to say, in answer to the objection made by the gentleman from Georgia, (Mr. Cobb,) that, if this power was not granted, as was the opinion of Publius, in the "Federalist," that gentleman had signed bills for the appropriations for the Cumberland Road.

This bill, Mr. B. said, broke no ground—it claimed no sovereignty, nor trespassed on any domain. If there could be any objection, it would arise from the United States being placed in the attitude of corporators, subject to the law of the State. This was an objection which had long ago been got over in a case of much more importance to the United States—that was, the incorporation of the Bank of the United States. Therefore, there could be no objections to their becoming shareholders.

Mr. SMITH said, the State of Maryland had always taken a deep interest in this Canal. It had not only



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granted a corporation, but had subscribed money towards its completion. Therefore, it seemed a duty on his part to say something on the present occasion. He was not one of those who concurred with the gentleman from Virginia, (Mr. TAZEWELL,) in his views. Mr. S. said, he had always been in favor of internal improvement, so far as it could be executed according to what he considered the true construction of the Constitution, and he thought the present measure came within the true construction of it. It was the beginning of the great chain of internal intercourse from Cape Fear to Boston, and this Canal being completed, would show that all the others were indispensably necessary, and would, at the proper time, be taken up.

The proposition of the gentleman was, he thought, worthy of great consideration; the Canal alluded to by him, was highly important to this great chain, and ought to be perfected; he should, therefore, when it was brought forward at a proper time, give it his most cordial support.

Mr. S. said, he understood that the sums subscribed by the States of Pennsylvania, Maryland, and Delaware, with that subscribed by individuals, would, with the appropriation now asked for from Congress, be sufficient to complete the work. As far as they had hitherto proceeded, the cost was within the estimate, and when this work was done, that alluded to by the gentleman from Virginia would be done also, and the communication from Cape Fear to the Delaware would be complete. The subscription had rapidly filled for forming the Canal to unite the Delaware and Raritan; which was a most important measure in reference to a time of war; and, in time of peace, would save insurance and lessen the coasting trade, which was the only objection he had to it. The East River, Long Island Sound, &c. made almost an internal communication with Boston; and, if the Canal were made, cutting off the dangerous navigation round Cape Cod, there would be, in some sort, an internal navigation from Cape Fear to Boston, and he thought the time would come when Pensacola would be connected by a Canal.

The subject of subscribing stock to this canal, Mr. S. said, was brought forward about 20 years ago, and passed the Senate. The gentlemen from the West, anxious, and laudably anxious, for their own benefit, introduced an amendment, in itself important, asking an appropriation to assist in carrying a Canal round the falls of Ohio. The consequence was, one broke down the other. The liberality and honorable sentiments of the gentleman from Virginia, were well known, and he could not be suspected of making this motion with the intention of defeating the object of the bill; yet, if his amendment should prevail, the bill would be so clogged, that it could not pass during the present session. But, if this bill were now to pass, it would be a strong assurance that the Canal would be completed, and the gentleman from Virginia might be confident that his project would, in due time, be likewise completed—but this Canal would be of consequence to Virginia and North Carolina, for it would give them two new markets.

Mr. S. said, he would lay the constitutionality of the question aside. He was speaking now simply on its expediency, and, in that respect, he trusted there would be but one opinion; but, by making the addition proposed by the honorable gentleman from Virginia, the whole scheme would probably fail. If he wanted money to be appropriated for forming a canal through the Dismal Swamp, this was not the way to get it. If he would bring his plan forward next session, the passing this bill at this time, would ensure its success. The advantages this Canal would offer to Virginia and North Carolina, would be an internal communication with Philadelphia and New York, and he was confident would ensure the votes of the gentlemen from those states, should they not be deterred by the Constitutional question.

Mr. VAN DYKE thought, from what the gentleman from Virginia had said, he might predict he was not opposed to the system of internal improvements and constructing canals: for by his offering the proposition he had done, he seemed to say he had no scruples as to appropriating the public money for that purpose.

Considering him, therefore, as a friend to the present measure, Mr. V. D. said he would ask him to consider how much the amendment he had proposed would impede it, by introducing a proposition new in its character, which had never been under the consideration of Congress; which had never been referred to any committee, which they had no official information to act upon, and which would, therefore, be the very means of defeating the object of the bill. Under this view, therefore, Mr. V. D. hoped he would withdraw his amendment.

In opposing the amendment, Mr. V. D. said he acted in conformity with the course that had been pursued in the House—placing each proposition for appropriating money on its own specific character and grounds. Instance the bill proposed to subscribe for a certain number of shares for the completion of a highly useful and necessary work; it was not proposed to give the money, but to subscribe for a portion of the stock, to enable the company to go on with their operations.

It was a subject, he said, that had been before Congress on many occasions, and had been approved of by the Senate many years ago. It had been discussed, and thoroughly discussed in the House of Representatives, and that House was willing, if the Senate would concur, to take so many shares. Mr. V. D. deprecated the idea of bringing forward another and a new proposition to attach to it, proceeding on an untrodden ground, to embarrass the Legislature—a proposition for an object which they may have heard of individually, but which had not been the subject of inquiry, and which they had now neither time nor opportunity to investigate.

It would, he thought, be very unreasonable to take up the time of the Senate, by entering into any detail of the importance of the work which the bill proposed to aid, and of encouraging such improvements. All these questions had been discussed over and over again; public sentiment was now matured, and was entirely settled on this point. This work must be considered as a national work, for it had never been looked upon as private stock; in former times the want of it had been most heavily felt.

Mr. V. D. said, he had a statement of the expenses incurred during the last war, of transporting cannon across the Isthmus of 14 miles, and it was most astonishing. One hundred pieces of cannon were transported from French Town to Newcastle, which cost \$4551, and 64 pieces were carried to Brunswick at an expense of \$2099. Some masts were carried across to Newcastle, the transportation of which cost \$8636. This Canal was, therefore, a matter of great interest to the nation in the time of war, for the transportation of troops, provisions, and ammunition; and if Congress now lent their aid to assist them, in two or three years the work would be completed.

Mr. LOWRIE, of Pa. thought this amendment would as effectually defeat the object of the bill as a majority of noes on the original proposition. Viewing as he did with a favorable eye, the project advocated by the gentleman from Virginia, he could not agree with him in all the particulars of the parallel he had drawn between the two projects. For many years the subject of the Chesapeake and Delaware Canal has been before Congress, and the attention of the Senate had been particularly drawn to it—for the last 6 years they had reported in its favor—statements had been submitted, going into detail, and the bill had been discussed in, and had passed through, the House of Representatives; and now a new project was offered; if it had been proposed at the early part of

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the session, it would have followed the usual course, would have been submitted to a committee, and would have been consequently acted on; but if it were now urged on, crowded as they were, by business, they must vote on trust; he therefore hoped the amendment would not prevail. If the project had all the merit its friends ascribed to it, it could not fail of succeeding at a future period.

Mr. BRANCH, of N. C. said the proposition of the gentleman from Virginia was of more importance to the section of country he had the honor to represent, than any that had ever been brought before Congress; it was connected with the destinies, not only of the east but the west part of the State. The Senate would recollect, that the Roanoke River had as much fertile land in its vicinity as any part of the Atlantic States. That river, he said, takes its rise in the western part of Virginia, waters the western parts of North Carolina and Virginia, and at this moment more produce is raised in the vicinity of this river, proportionably, than in any of the Atlantic States. Four years ago, a company was chartered by the Legislature of North Carolina, to improve the navigation of the Roanoke River—its funds had all been expended, and the navigation was now nearly completed; the canal round the principal falls of the Roanoke was now excavated, and if they had any way of getting to the sea, they might carry on a most extensive and lucrative trade; the proposition now offered, was the only one by which they could get their produce to market; the funds of the Dismal Swamp Canal Company were exhausted, and the present assistance was asked to enable them to complete the Canal. Mr. B. said, his friend from Virginia (Mr. FAZEWELL) had clearly shown how intimately the two projects were connected, and he believed if something were not done, all the money expended in North Carolina in improving the Roanoke River would prove so much money thrown away. He thought they could not be charged with encumbering the present bill. If Congress, by a majority, had no constitutional difficulties; if they could embark on the subject of internal improvements, why should not the people of North Carolina receive some portion of the benefit to be derived from that system?

Mr. VAN DYKE said it was from the offering of the amendment itself he had formed the idea that the gentleman from Virginia was favorable to the system of internal improvements; but, if he was mistaken, he had only to say, he perceived he was not to consider him as an advocate for the measure proposed by the bill. He asked the gentleman whether it could be possible, if this bill, thus clogged, were sent back to the House, it could finally pass that body during the present session? Considering the discussion it would necessarily elicit, and the minute attention it must receive, the impression on his mind was the object of the bill would inevitably be defeated. Mr. V. D. said he did not oppose the amendment because he was unwilling to afford any assistance towards the accomplishment of the object they advocated; it was not on the ground that the project was not to be completed, or was not to form one of the links in the great chain; but he inquired why this amendment had not been proposed to the committee, so that it might have been fully examined, and, when the bill was reported, there would have been no need of further amendment, and the information submitted in detail would have brought the House of Representatives to view it in the same light in which it was viewed by the Senate. But this amendment was proposed just at the close of the session; and it introduced new matter altogether, which they could not at this moment discuss. As to the importance of the Dismal Swamp Canal, he had no doubt that Gen. Washington did, looking to the wants and resources of the country, notice this as a most important project to which the attention of Virginia and North Carolina should be directed. It was a fact well known to every one, that during the Revolutionary War, when Washington had to trans-

port his troops across the peninsula between the Chesapeake and the Delaware, the difficulties were found to be nearly insurmountable, and even the transportation of the baggage was matter of great difficulty, and caused considerable delay; he hoped that this amendment would not prevail, for in that case, the bill, so clogged, must be lost.

Mr. TAZEWELL replied to the objection, that sufficient time had not been afforded for the examination of the subject, by saying that the bill now under discussion had, it was true, been laying on the table for several weeks past, but it was nothing more than the printed bill of the House of Representatives, that had passed two readings in that body; and its consideration here was not more mature than that of the amendment he had just offered: the only reason, however, why his proposition was introduced as an amendment to this bill was, because there was not time for it to pass through the two Houses as an original and separate proposition; but that, when returned to the House as an amendment to the present bill, it would have sufficient time to pass.

Mr. BENTON, of Missouri, said, he should vote in favor of the amendment. Although the subject was treated here as a new one, it was a proposition which was familiar to the public mind; it related to a way that had been travelled at least for seventeen years; there was no doubt that Washington had seriously considered the project, and indeed it had been before the public so frequently, and in so many forms, that every gentleman's attention must have been drawn to it and his conclusions formed.

Mr. B. said, he considered the plan of internal navigation from St. Mary's to Boston, as one entire work, and he would lend all the aid in his power to effect it from one end to the other; yet he was indisposed to carry on a work of this description by piece meal. He looked on the works proposed to connect the waters on the front of the Atlantic Coast in the same point of view. The able report of Mr. Gallatin, on that subject, showed that there were but eighty or ninety miles of cutting required to connect the whole of the tide waters from St. Mary's to Boston. He wished that the whole system should be adopted, and completed at once, and then confidence would be established throughout the whole Union. With respect to the ability to complete this inland navigation, when there were but ninety miles to cut through, it could not be doubted. When it was considered that sixty millions of dollars had been expended for transportation during the late war, over roads so abominable as to make the cannon balls cost a dollar a pound, was it to be supposed that in time of peace, with increasing resources, they could not afford to pay for the construction of roads, which, in time to come, would prevent such an enormous waste of money? The whole system would not, in his opinion, cost more than half the sum that was expended for transportation during the late war. He should vote in favor of the proposition of the gentleman from Virginia, because he was willing it should share the same fate as the original bill, and because, although he was devoted to the completion of the entire system, he objected to the patch work way in which it presented itself.

Mr. B. was opposed, however, to the manner in which this money was to be applied. He did not approve of associations between this Government and the people of the United States. By the bill, this great Government became nothing less than stockholders in an act of incorporation in one of the States. If they began in this way, subscribing to different associations, they would doubtless have innumerable applications of this description; every one would commence by demonstrating in as clear a manner as Euclid himself could demonstrate, that it would be a great money making business for the United States; and by and by, petition would follow petition, praying a subscription of stock.

Mr. B. concluded by observing, that, on the report

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of able Engineers, he should be willing to vote any sum of money for the completion of the work from St. Mary's to Boston, but he was against its being carried on in this pie-meal way.

Mr. NOBLE thought that a general system of internal improvement could not be executed at once, because the resources of the nation were insufficient; any system of that kind must be gradually completed. By the passage of the bill for the continuation of the Cumberland Road, this principle was fully established. The gentleman from Missouri had voted for the Cumberland Road, which was a part of the great system. Mr. N. said he was favorable to the object of the proposed amendment, if it were unconnected with the present bill, but if the mover of it would not consent to withdraw it, he should move to amend it by asking for an appropriation to cut a canal round the falls of Ohio, in which the nine Western states were interested.

Mr. SMITH, of Maryland, expressed his regret that the gentleman from Virginia had brought forward his amendment. It appeared to him that the friends of the Dismal Swamp Canal were willing that the canal in their part of the country should be completed, and had no great objection that the public money should be appropriated for that purpose, if it could be done without their vote, they being constitutionally opposed to it.—But, Mr. S. said, if they would only allow the present bill to pass without attaching their proposition to it, they would be the more sure of their project succeeding when brought forward by itself at the next session.

This bill, Mr. S. repeated, was proposed twenty years ago, and in consequence of an amendment similar to the present, being proposed, the whole fell to the ground, and there was no doubt, if the present amendment prevailed, some of the Western members would propose an additional amendment, which would break down the whole.

The plan proposed by the gentleman from Missouri (Mr. BENTON) was certainly a most extensive one. He would not be satisfied by taking things pie-meal, but must have every thing transacted on the largest scale. It was his (Mr. SMITH'S) opinion, that if they were to attempt to act on a general system, they would get nothing at all done. The fortifications had been erected by pie-meal; a certain sum of money equal to the means of the country, had been annually appropriated; but if they had attempted to complete the whole system at once, it never would have been done; there were many parts of the report of the corps of Engineers, on which many of the members of Congress would have been unwilling to have acted. It surely was no sound argument to say they were to relinquish a great good because it could only be accomplished by pie-meal. If they had attempted to procure the construction of the Cumberland Road according to this grand system, not an inch of it would have been made. He would advise gentlemen to be content with what they could get, and not, by attempting to overload the carriage, to break down and lose the whole.

Mr. BRANCH, of N. C. said, although he had his scruples in regard to the constitutionality of the present measure, which would probably influence his vote, he was not disposed to defeat the bill on the table in any other than a direct way. He was opposed to the exercise of the power, because he thought that the constitution under which they acted, did not confer it. He should forbear portraying the consequences that had arisen from the immense patronage possessed by this Government, because many instances of it must be fresh in the recollection of every gentleman. The power already exercised was excessive, and should they add new strength to this power, already so formidable to the friends of liberty? He trusted not. Should they place immense sums of money at the disposal of the Government—of the President? that President who had not

only controlled the deliberations of this Congress, but had named his successor? Was it not their duty to pause and seriously reflect on the awful consequences that were likely to result from granting this power? He trusted they would, and that every gentleman would feel it his duty to vote against this bill.

The question being taken on Mr. TAZEWELL'S proposition, it was negatived by the following vote:

YEAS.—Messrs. Barbour, Barton, Branch, Elliott,<sup>98</sup> Hayne, Holmes of Miss. Jackson, Taylor, Tazewell, Williams—10.

NAYS.—Messrs. Barton, Bell, Bouigny, Brown, Chandler, Clayton, Dickerson, Edwards, Findlay, Holmes, of Me. Johnson, of Ken, Johnston, of Lou. Kelly, King, of Alab. King, of New York, Knight, Laaman, Lloyd, of Mass. Lowrie, M'Ilvaine, M'Lean, Macon, Noble, Parrott, Ruggles, Seymour, Smith, Talbot, Thomas, Van Buren, Van Dyke—31.

Mr. LLOYD, of Mass. said he wished to be informed at what time the assessments for the subscription of the Government were to be made payable, and when it was expected the work would be finished?

Mr. BROWN, the Chairman of the Committee, stated, that he supposed the payments would be made, at the time the dividends of the Bank were made, and that the work, it was expected, would be finished next year.

Mr. LLOYD observed, he was not opposed to the bill; he considered the object of it as an important, useful, and national one, and he hoped the enterprise would also be a successful one. He disagreed with the honorable gentleman from Missouri, in his objection to the partnership concern of the United States with the stockholders; on the contrary, it was to him its highest recommendation; in works of public beneficence, and this was one, the association between the Government and its citizens, could not be too intimate; the great benefit of these works was, connecting together distant settlements, and uniting them with each other, and the Government; he was therefore not opposed to the United States being a partner in the concern; all he wanted was, that the Government should be a partner on equal terms with its associates. It might be recollected that this work had been commenced many years since, and had once failed—it might fail again; although he trusted, it would not. The work might also not be accomplished at the time expected, which was rarely ever effected; and, by the wording of the bill, he thought the Government liable to be called on immediately, or as soon as dividends of bank stock were declared equal to the amount, for its whole subscription; while, if the work should be again left unfinished, the stockholders may have paid only a part of theirs. He was willing the Government should go on *pari passu* with the stockholders, but no faster.

From the payments being made payable from the dividends in the Government shares in the Bank of the United States, and from the printed monthly reports of that Institution, which have been laid on the table for the last year, he had been induced to examine them, and he was happy to find the Bank in so prosperous and creditable a situation; and he received pleasure from stating, that its funds were fully and advantageously employed. And, without then entering into a further detail, he would state, that the Bank, after first deducting the late January dividend of two and a half per cent. had remaining, a surplus undivided profit of \$710,000, which alone was equal to two per cent. already earned for the next or succeeding dividends, to which could also be added the earnings of the ensuing six months. The Bank would not then probably give a less dividend in July, than three per cent. over and above which the Bank now possessed a reserved contingent fund of more than \$3,700,000, to meet former deficiencies and casualties. If, then, as is perhaps the case, the January dividend has not yet been passed over to the credit of the

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United States by the Bank, which was two and a half per cent. or	\$175,000 00
and there should be added to it a July dividend of three per cent. or	210,000 00
there would be unapplied of Government Bank dividends,	\$385,000 00

thus, as he thought, by the wording of the present bill, giving the Canal Company the power at once to call for \$175,000; and, in July, the entire balance of the \$300,000, agreed to be taken by the United States, although the other stockholders may only at that time have partially paid their subscriptions. To obviate any risk of which, he said he would propose an amendment placing the Government and the stockholders on the same footing. Mr. L. moved the amendment accordingly.

Mr. VAN DYKE thought the amendment not requisite, as provision to that effect had been fully made by the charters granted to the Company, which, if referred to, would be found sufficiently guarded, on this head, and secured the object desired. He hoped, therefore, the amendment would not be urged.

The amendment was negatived.

The question recurring on the third reading of the bill—

Mr. MACON, of North Carolina, said he rose with a full heart, to take his last farewell of an old friend that he had always admired and loved—he meant the constitution of the United States. On this occasion, he said he had experienced a difficulty in expressing his feelings. Perhaps old people thought more of what took place when they were young than of the occurrences of after times, but in times of old, whenever any question touching the constitution was brought forward, it was discussed day after day; that time was now passed. Gentlemen say it is not necessary now to enter into the constitutional question on this measure. The first time he had ever known them refuse to discuss the constitutional question, involved by a proposition, was, when the act was passed incorporating the present bank of thirty-five millions; from that time the constitution had been asleep.

Every scheme that was proposed was with a view of tying the people together. The late Bank of the United States was to give them a currency alike throughout all the States. It was said at the time, that this was impossible; the friends of the Bank insisted they could do it; but, had they done it? Then they got into a system of manufacturing, and every body was to get rich by it.—The next thing was the system of a great navy and fortifications, which was to make them one people from the Atlantic to the Rocky Mountains, from the Bay of Passamaquoddy to Florida; but, had it done so? And now the people were to be tied together by roads and canals. He thought the plan of the gentleman from Maryland (Mr. SMITH,) was as wise a one as ever was devised to add power to the government. Do a little now, and a little then, and, by and by, they would render this government as powerful and unlimited as the British Government was. We go on deciding on these things, said Mr. M. without looking at the constitution, and I suppose we will, in a few years, do as was done in England—we shall appoint a committee to hunt for precedents. My heart is full when I think of all this; and what is to become of us I cannot say.

This government was intended to be a limited one, its great objects were war and peace, and now we are endeavoring to prove that these measures are necessary, both as war and as peace measures.

Mr. M. said, he would beg leave to call the attention of the Senate to a celebrated report made in Virginia in 1799, for a true exposition of the constitutional powers of this government. If there was reason to be alarmed at the growing power of the General Government, how much more has taken place since? Congress now stop-

ped almost at nothing, which it deemed expedient to be done, and the constitution was construed to give power for any grand scheme. This change was brought about little by little; so much had never been attempted at one time as would agitate the people. Compare these things with those which had, in old times, been done under the constitution, and the change would be found to be most astonishing. The end of them all would be, in the vulgar tongue, taxation.

He had before expressed his belief that the public debt would never be paid off. They were following Great Britain, step by step, and the final result would be, they would cease to look to the debt itself, but think only of the interest. The history of the British Government would prove that every war had increased the public debt, and added to the burthens of the people; and what was the result in America? At the time of the Revolution, the war produced eighty-four millions of funded debt; this was now increased to ninety millions, and instead of paying it, they were following the example of Great Britain, and turning it into  $\frac{1}{2}$  per cent. stock, which, like the 3 per cent. stock, no one would buy at par.

Mr. M. said, he was against this government connecting itself with any company. He would have it get clear of the Bank of the United States. Let it appoint no officer, and if it cannot dispose of its stock on good terms let it get rid of it at any rate. His idea of internal improvement in this country was, to take from the people all unnecessary burthens. Let them have plenty of wholesome food and good clothing, and he doubted not they would continue to raise boys and girls who would become men and women. These were the sorts of internal improvements he desired to see. It was in vain to talk of any other internal improvements strengthening the country, when there was ninety millions of public debt, and above a hundred of private debt owing. Much of the latter, indeed, was called accommodation paper, but he knew it was false.

These schemes, he thought, were monstrous strides, considering the character of the government. The gentleman from Maryland (Mr. SMITH,) was for laying the constitution aside on this bill, but that was nothing new in that gentleman, for he had constantly pursued that plan ever since he had known him.

Mr. M. was afraid they were going to follow the system recommended by a member of a certain foreign legislature. When he was asked what measures he would adopt to make the people peaceable and submissive, he replied, "tax them heavily, and collect it rigidly; give them enough to do, and they would never plague the government." This was the practice in Europe, and it had succeeded very well. As to the meaning of the Constitution, Mr. M. said, those who composed the Convention that formed it, certainly must have known what they intended, and all the writers of the day referred to no power of this kind; but it seemed the people of the present day understood what the framers of the Constitution intended better than they did themselves. He could give no other names to his feelings than fears. It was true, he had no fears for his personal liberty, but he feared his descendants would be taxed up to the nose, so that if they got breath, it would be as much as they could do. The country now was not in a situation to pay direct taxes. In time of war, there was 15 per cent. difference in the taxes of the different States; but the same thing would not be suffered now. He was certain the government could neither lay them nor collect them at this time. His fears might be groundless—they might be nothing but the suggestions of a worn-out old man, but they were sincere, and he was alarmed for the safety of this government.

Mr. SMITH, in reply, adverted to the opinions that had been from time to time so confidently advanced by many, that ruin must follow many of the projects which

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had been adopted with so much benefit to the country. When the funded system began, it was to ruin them; the same thing was said when the Bank of the United States was established, and when the Navy was first formed. Surely none of these predictions had been verified. Immediately after the late war, Congress had taken off the direct taxes, and had paid a greater amount off national debt proportionably than Great Britain had done, during the same period of time. Besides this, they had expended much in the purchase of Florida, and had seven millions in the Bank of the United States. Mr. S. said he was no friend to the national debt; but it was daily paying off, and if they could, by exchanging the stock, save one fourth of the interest, it surely would be a benefit to the people.

Mr. S. said, his opinion on the constitutionality of the present measure was settled. It was decided by a solemn vote, that Congress have not the power of themselves to do any act relative to Internal Improvements; but it was likewise determined, that when Internal Improvements were began by Companies, Congress had a right to appropriate money for the purpose. They were, therefore, now acting in conformity to this vote. The States of Delaware and Maryland had begun to cut their Canal; they had raised funds which were exhausted, and they had now raised a new subscription, which they would lay out better: Mr. S. said he had generally voted against the power of Congress, but this was a great national work in which the Constitutional question did not enter at all.

The question was, taken on ordering the bill to a third reading and decided in the affirmative, by the following vote:

YEAS.—Messrs. Barton, Boulogny, Brown, D'Wolf, Dickerson, Eaton, Edwards, Findlay, Jackson, Johnson, of Ken. Johnston, of Lou. Kelly, Lanman, Lloyd, of Mass. Lowrie, McIlvaine, Noble, Parrott, Ruggles, Smith, Talbot, Thomas, Van Dyke, Williams—24.

NAYS.—Messrs. Barbour, Bell, Benton, Branch, Chandler, Clayton, Elliott, Hayne, Holmes, of Maine, Holmes, of Miss. King, of Alab. King, of N. Y. Knight, McLean, Macon, Seymour, Tazewell, Van Buren—18.

And the Senate adjourned.

#### HOUSE OF REPRESENTATIVES—SAME DAY.

Mr. A. SMYTH, of Virginia, offered the following:

*Resolved*, That the Clerk of the House of Representatives be authorized and directed to purchase, for the use of the said House, three hundred copies of the Journals of Congress from the 5th of September, 1774, to the 1st of November, 1788, recently published by Way and Gideon: *Provided*, the price shall not exceed \$2 25 per volume, full bound and lettered.

Mr. SMYTH supported the resolution by a statement of what had formerly been resolved by both Houses, in respect to this work, and the manner in which the publishers had hitherto been disappointed. He dwelt on the importance of the period to which the Journals relate.

The motion was agreed to.

#### CHESAPEAKE AND OHIO CANAL.

Mr. MERCER moved to discharge the committee of the whole from the consideration of the bill "to confirm the acts incorporating the Ohio and Chesapeake Canal Company;" which was carried.

The House accordingly took up the bill.

The following amendment, formerly offered by Mr. M'KIM, to the second section of the bill, was read and agreed to.

Strike out from the word *thereof*, in the twentieth line, second section, and insert: "for their decision thereon; and if Congress should be of opinion that the said canal may be cut in the manner proposed as aforesaid, with-

out impeding or injuring the navigation of the Chesapeake and Ohio Canal, the same shall be conclusive thereon."

Mr. MERCER moved to insert, in the 17th line, the words, "over the District of Columbia;" (which confines the sanction given by Government, to that part of the canal which lies within the District.)

The amendment was agreed to.

Mr. RANKIN moved to amend the first section of the bill, by striking out all after the enacting words, and inserting the following:

"That the act of the Legislature of Virginia, entitled 'An act incorporating the Chesapeake and Ohio Canal Company,' be, and the same is hereby ratified, and confirmed, so far as may be necessary for the purpose of enabling any company, that may hereafter be formed by the authority of said act of incorporation, to carry into effect the provisions thereof in the District of Columbia, within the exclusive jurisdiction of the United States, and no farther."

Mr. MERCER opposed the amendment, and asserted that the language employed by the United States, in granting the incorporation, should correspond to that used by Virginia and Maryland for the same purpose. He combatted the idea of any danger arising from the terms employed in the bill, and gave reasons to show that the concerns of the company required its provisions.

Mr. SHARPE thought, that, as the bill was now so different from what it was when reported by the Committee on Roads and Canals, that he was at a loss clearly to understand it; it had better go back to the committee. He doubted whether the route contemplated by the Company was as good as that by the Susquehanna. In order to give more time for examining the subject, he moved to lay the bill on the table; but withdrew the motion at the request of

Mr. TRIMBLE, who explained the object proposed, which was simply that the Government should give the same permission with respect to the District of Columbia, as Virginia and Maryland had done respecting their own territory. As to the question whether some other route was preferable to that in view by the company, now to be incorporated, it was a question for the subscribers to the stock to consider; Congress had nothing to do with it in giving leave that the canal should come through the District of Columbia.

Mr. SHARPE disclaimed all opposition to the construction of a canal from the Ohio to the Chesapeake, but did not believe that this company, or any other, would ever accomplish the object. The real plan in view, by the friends of the bill, was first to get this act, and then, at next Congress, to ask an appropriation of from twenty-five to fifty millions of dollars. Such was the doctrine which had been held in the committee room. He had no objection to Internal Improvements, and was willing to appropriate liberally to promote them, provided the several states enjoyed their shares. But he was opposed to going into this measure before surveys had been obtained. Some Engineers said it would require 500 locks to ascend the mountain. Nor was it certain that there was sufficient water on the summit level, &c.

Mr. STORRS hoped the bill would not be laid on the table. Nothing else was asked than merely permission for the canal to go through the District of Columbia; if more than this was sought, he should decidedly oppose it. But he thought that this would be secured by the amendment of the gentleman from Mississippi. If the latter part of the bill should be retained, it would amount to an express act of incorporation by Congress to this company—to this he should object, as bringing the House under a virtual pledge to do more. He was not opposed to the design of the canal, and he would vote any thing in reason to promote it; but he



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thought the amendment gave all that was now needed or asked.

Mr. MERCER felt it due to himself to vindicate the bill from the imputations of the gentleman from New York. It was the first time he had ever known the private conversations of gentlemen in a committee room, brought forward on the floor of this House to prejudice a measure under discussion. What the personal views of individuals, as to certain great plans of internal improvement, had to do with the question before the House he was at a loss to conceive. The conversations alluded to, did not, however, embrace this canal only, but many roads, canals, and other measures of a general character; and it was for the whole of these that the millions mentioned by the gentleman had been talked about.

Mr. M. denied that the bill was so greatly changed, and he adverted, in order, to the amendments which it had undergone. In reply to Mr. STONAS, Mr. M. admitted that the bill was an act of incorporation—such was its avowed object; but he contended that no evil could legitimately grow out of it, especially as now limited by one of the amendments. He opposed the amendment of Mr. RANKIN, as defective in several provisions, which were secured by the bill as reported, particularly respecting toll.

Mr. RANKIN supported the amendment. His main objection to the bill was, that it went to mingle the powers of the General and State Governments. He thought the views of the gentleman from New York, (Mr. STONAS,) were perfectly correct. The act of Virginia, now proposed to be confirmed, appointed Commissioners for this work; if this were re-enacted by Congress at the next session they would hear that they were bound to patronize the design by large appropriations, as they had put their sanction on it, by appointing Commissioners. He thought the powers of the General and State Governments should be kept as distinct as possible. If the General Government engaged in Internal Improvement at all, it should either be by taking the work into their own hands entirely, or by subscribing to the stocks of private companies. The bill proposed neither. The moment the bill passed, Government might give up all the surveys, made over the mountains; the whole design would thenceforth be a private concern. The amendment gave the company all which he thought they ought to ask, or expect.

The question was then put on the amendment and carried—ayes 83, noes 58.

And the bill, as amended, was then ordered to be engrossed for a third reading to-morrow.

An engrossed bill concerning the grant of land to the Marquis de Maison Rouge was read a third time.

Its passage was opposed by Mr. SANFORD, of Ten. and advocated by Messrs. ISACKS, CAMPBELL, and J. T. JOHNSON; when, on the question being put, it was passed by a large majority.

#### IN SENATE—FRIDAY, FEBRUARY 25, 1825.

Mr. CHANDLER, from the Committee on the Militia, to whom was referred the report of the Secretary of War, together with an abstract of infantry tactics, submitted the following resolution. He observed, they had been at great expense in furnishing the Militia with arms, and were of opinion they should be furnished with the means to make use of them for the benefit of the country. It was now too late in the session to bring in a bill for the purpose, and it was the object of the resolution to obtain sufficient information to act on it at the ensuing session.

*Resolved*, That the Secretary of War be directed to advise, for three months, in the National Intelligencer, that he will receive, at any time before the first day of December next, sealed proposals for printing 40,000 co-

pies of the abstract of Infantry Tactics, which was reported to the Senate by the Secretary of War, on the 3d day of February, instant, to be delivered at the War Department, bound in boards, and that he, the Secretary, will state, in his advertisement, as near as may be, the size of the work, the number of pages and plates, which it will contain, and report such proposals as he may receive, to the Senate, in the first week of the next session of Congress.

The resolution was read, considered, and agreed to. The Senate then proceeded, as in committee of the whole, (Mr. LOWRE in the chair,) to consider the act authorizing the occupation of the Oregon River.

Mr. BENTON moved an amendment, providing an additional Paymaster, and extending the time allowed for the officers to send in their accounts; which was agreed to; and then (on account of the temporary absence of the chairman of the Committee,) the bill was laid on the table.

The Senate proceeded to the consideration of the bill authorizing the President of the United States to appoint Commissioners to treat with the Chippewa Indians, for the right of discovering and working certain valuable Copper Mines, supposed to be on the south side of Lake Superior; and appropriating the sum of ten thousand dollars to defray the expense of treating with the said Indians. The bill having been read—

Mr. BENTON said, that the existence of Copper Mines on Lake Superior was a fact of historical notoriety, attested by all travellers in that region for a century and a half past. They were seen in 1689 by the monk La Hontan; in 1721, by the Jesuit, Father Charlevoix; in 1766, by Captain Carver; in 1771, by Henry; and in 1789, by Sir Alexander McKenzie. Each of these travellers published an account of these mines, and their descriptions have excited the attention of the first mineralogists of Europe. Some years before the commencement of our Revolution, a mass of silver ore was found in the same region, carried to England, and gave rise to a mining company, of which the Duke of Gloucester was the head. They caused a gallery to be opened in a hill on the south side of the lake, but finding nothing but copper, the operations were discontinued; for it was no object in the then condition of the country and state of transportation, to carry copper from Lake Superior to London.

In the year 1800, at the time when the Government of the United States contemplated an augmentation of the Navy, a resolution, adopted in both Houses of Congress, authorized an examination to be made of these mines, by a competent agent; but the policy of the Government changing soon afterwards, the examination was attended with few results.

In 1807, Mr. Gallatin deemed these mines of such value as to be enumerated by him among the sources of our national wealth.

In 1820, they were visited by Governor Cass, of Michigan, and Mr. Schoolcraft, a mineralogist, and a report of their discoveries made to the Secretary of War. A knowledge of this fact, Mr. B. said, had induced him, at the session of 1821-2, to lay a resolution upon the table of the Senate, calling upon the War Department to furnish all the information which the Department contained upon this subject. In compliance with that resolution, a report had been received, and published among the documents of 1822-3, giving full and satisfactory information upon the extent and value of these mines.—Their report has been confirmed, by a letter from Gov. Cass, lately printed among our documents, and by another from Mr. Schoolcraft, [which was read,] and the fineness and purity of the metal had been proved by the *proof* of a mass of 50 pounds weight, which had been lately deposited in the Library of Congress. But the superior fineness of this metal is not a mere matter of opinion. It has been tested in the Mint of Utrecht, by

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the Inspector General of that Mint, upon the request of our late fellow citizen, Gov. Eustis, of Massachusetts. That distinguished citizen, anxious to be useful to his country, had possessed himself of specimens of this copper when at the head of the War Department, and carried them with him afterwards on his embassy to Holland. The report of the Inspector is to be found in all the principal European works upon the subject of mineralogy. It says:—

"The examination of the North American copper, in the sample received from his excellency the Minister, by the operations of the coppel, and the test by fire, has proved that it does not contain the smallest particle of silver, gold, or any other metal. Its color is a cleared red; it is peculiarly qualified for rolling and forging, and its excellence is indicated by its resemblance to the copper usually employed by the English for plating. The dealers in copper call this sort *Peruvian* copper, to distinguish it from that of Sweden, which is much less malleable. The specimen under consideration is incomparably better than Swedish copper, as well on account of its brilliant color, as for the fineness of its pores, and its extreme ductility."

Mr. B. would not dilate upon the advantages to be derived from a home supply of this metal. It was an article of almost universal use. Ships could not be built without it. The cost of copper in a single ship of the line, lately built under an act of Congress, was \$57,000. Merchant vessels required a proportionate supply. In all the grain-growing districts of the United States, it was in demand for stills. The Mint of the United States made annual purchases, sometimes to the amount of \$30,000 for the coinage of cents and half cents. Combined with zinc, of which there was an exhaustless supply in the mineral districts of Missouri, copper produced brass, an article of such universal use and application that it was found in every form, and in every house, from the cottage of a peasant to the palace of a King, and applied to every use, from the pin to the cannon.

Mr. B. believed that the problem of the existence of these mines ought to be solved, and that the appropriation of \$10,000, contemplated by the bill, was an object of no consideration in the magnitude of the question to be decided.

Mr. DICKERSON was not opposed to the object of the bill, but he preferred a modification of its provisions. He would prefer that an Agent should be sent to examine the country, and to make a report, and to have that report returned before the subject was finally acted upon. He was no stranger to the accounts which described a large mass of native copper on the south side of Lake Superior, but detached masses of any metal were not considered as certain indications of mines. He instanced the lumps of gold found in North Carolina, and of other metals found in other places, and yet without the accompaniment of mines.

Mr. CHANDLER was in favor of having the country examined before any thing further was done; but considered the undertaking as an experiment in which we, the United States, would probably expend more dollars than we should ever receive cents.

Mr. JOHNSON, of Kentucky, replied. He said that reports of the kind that gentlemen called for, had already been received, and referred to in debate by the Senator from Missouri. It gentlemen wanted reports founded upon actual experiments in searching for mineral, such search would involve the commission of a trespass upon the soil and jurisdiction of the Indians—a point upon which the gentlemen had been particularly scrupulous heretofore.

Mr. BENTON rejoined. He was not skilled in the science of mineralogy; but he knew enough to know that a solitary mass of any metal, found by itself, was not a sign certain of the presence of a mine. But here the fact was not what the gentleman supposed it to be. The

indications of copper on Lake Superior, was not confined to the mass which the gentleman had particularized. It was seen in thousands of places, in lumps and in veins, on both sides of the Lake, on the islands within it, and extending across the country to the Falls of St. Anthony. Mr. B. said, that it was a continuation of that great region of fossils and minerals, which, beginning upon the Arkansas river, traversed the state of Missouri, crossed the Mississippi at the Falls of St. Anthony, and exhibited itself on both sides of Lake Superior. As to reports, said Mr. B. we have enough of them. We know as much as we can learn, by looking at the surface of the ground. If we want to know more, we must penetrate the bowels of the earth, and that is the precise thing which the bill before the Senate proposes to do. It is in vain to say, that we must not search until we are sure of finding. Upon that principle nothing would be found, except what the chapter of accidents would give. It was equally in vain to argue against the existence of valuable mines on Lake Superior, because they were not yet discovered. The great copper mines in England, which now furnish more than one half of the whole quantity of copper produced by all the mines in the known world, were only discovered in the last century; the name of the great salt mine in that kingdom, *Salina* was known to the Roman legions two thousand years ago; but the vast mine of salt, which furnished the salt water of that spring, was only discovered some fifty years ago.

The bill was then ordered to a third reading.

The Senate, then, as in committee of the whole, proceeded to consider the bill authorizing the establishment of a Navy Yard and Depot, at or near Pensacola.

Mr. LLOYD, of Massachusetts, supported the measure at some length, explaining the advantages which the situation possessed, and the necessity there was of such a depot being established in that quarter.

Mr. HAYNE proposed to amend the bill, by adding the following section:

"And be it further enacted, That the President of the United States be, and he is hereby, authorized to make the necessary arrangements for the establishment of a Navy Yard, either at Charleston, in South Carolina, or St. Mary's, in Georgia, should the examination and survey, directed to be made by the act of 26th March, 1824, show that such an establishment will be advantageous to the public service."

The amendment was supported by Messrs. HAYNE and ELLIOTT, and opposed by Messrs. SMITH and LLOYD, of Mass. on the ground of its obstructing the passage of the bill. On the question being taken, it was negatived.

The bill was then ordered to be engrossed for a third reading.

The bill, as amended, authorizing the subscription of Stock in the Chesapeake and Delaware Canal Company, was read a third time, passed, and returned to the House. Yeas 19, Nays 11.

The bill for the continuation of the Cumberland Road, was read a third time, passed, and returned to the House. Yeas 23, Nays 6.

#### HOUSE OF REPRESENTATIVES—SAME DAY.

Mr. CAMBRELENG, from the Committee of Ways and Means, reported a bill to authorize the importation of foreign distilled spirits in casks of a capacity not less than fifteen gallons: which was twice read.

Mr. CAMBRELENG explained the reasons for introducing this bill—the state of our trade with South America, and the obstacles to it arising from the present law on this subject.

Mr. TRIMBLE, of Ken. opposed the bill, as leading to frauds on the revenue; and took a view of the course of legislation hitherto pursued in relation to our revenue laws; he deprecated any further relaxation of the system.

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Mr. CAMBRELENG replied.

The bill was laid on the table.

Mr. BLAIR called up the joint resolution laid on the table by him some days since, directing a survey of the waters of East Tennessee, with a view to the location of an armory. The motion was carried; ayes 73, noes 52.

Mr. BLAIR briefly stated the grounds of the resolution. An opportunity was now afforded for having the proposed examination effected without a dollar's additional expense to the United States, as the Engineers were already ordered to examine that country for another object.

Mr. ISACKS moved to include West Tennessee.

Mr. HENRY moved to include the Southwest part of Kentucky.

Mr. McLEAN, of Ohio, moved to include the waters of Mad River, near Dayton, in Ohio.

Mr. WRIGHT opposed this amendment, and also the resolution itself.

Mr. McCOY called for the reading of the original law, ordering the examination of the Western waters, when,

On motion of Mr. HAMILTON, the resolution and amendments were laid on the table.

An engrossed bill to confirm the act of the General Assembly of Maryland, confirming an act of the General Assembly of Virginia, to incorporate the Chesapeake and Ohio Canal Company, was read a third time, and the question being, Shall this bill pass?

Mr. COCKE demanded that it be taken by yeas and nays, which was ordered.

The question was then put, and decided in the affirmative, by yeas and nays, as follows:

YEAS.—Messrs. Abbott, Alexander, of Va. Alexander, of Ten. Allen, of Ten. Allison, Bailey, Bartlett, Bartley, Blair, Brent, Buchanan, Call, Cambreleng, Campbell, of Ohio, Cassedy, Condict, Crafts, Cushman, Cuthbert, Durfee, Eddy, Edwards, of N. C. Ellis, Findlay, Forsyth, Fuller, Gatlin, Gurley, Harris, Harvey, Hayden, Hemphill, Henry, Herrick, Herkimer, Hobart, Houston, Isacks, Jennings, Johnson, of Va. J. T. Johnson, Kent, Kidder, Lathrop, Lawrence, Lee, Lincoln, Little, Longfellow, McArthur, McDuffie, McKean, McKee, McKim, McLean, of Ohio, Marvin, Matlack, Matson, Mercer, Metcalfe, Miller, Mitchell, of Pa. Mitchell, of Md. Moore, of Ken. Moore, of Ala. Neale, Newton, O'Brien, Olin, Outlaw, Owen, Patterson, of Pa. Patterson, of Ohio, Plumer, of Penn. Rankin, Reed, Reynolds, Rose, Ross, Saunders, Sandford, Scott, Sharpe, Sibley, Gloane, Alex. Smyth, Wm. Smith, Standefer, Sterling, J. Stephenson, Stewart, Storrs, Swan, Taliaferro, Taylor, Test, Thompson, of Pen. Tomlinson, Trimble, Udree, Vance, of N. C. Vance, of Ohio, Van Rensselaer, Vinton, Wayne, Webster, Whipple, Whitman, Whittlesey, Williams, of Va. James Wilson, Henry Wilson, Wilson, of Ohio, Wolf, Wood, Wright.—116.

NAYS.—Messrs. Allen, of Mass. Barber, of Con. P. P. Barbour, Brown, Burleigh, Cady, Clarke, Cocke, Collins, Conner, Culpeper, Day, Dwinell, Foot, of Con. Foote, of N. Y. Frost, Gist, Hogeboom, Hooks, Jenkins, Leftwich, Litchfield, Long, Martindale, Morgan, Richards, Arthur Smith, Spaight, A. Stevenson, Stoddard, Ten Eyck, Thompson, of Geo. Tyson, Wilson, of S. C.—34.

So the bill was passed; its title was altered to read as follows: "An act confirming the act of the Legislature of Virginia, entitled 'An act incorporating the Chesapeake and Ohio Canal Company, and an act of the state of Maryland, confirming the same,'" and then it was sent to the Senate.

IN SENATE.—SATURDAY, FEBRUARY, 26, 1825.

The Senate then resumed, as in committee of the whole, (Mr. MILLS in the chair,) the consideration of the bill for the occupation of the Oregon river.

Mr. BARBOUR said, that, personally, he had no parti-

cular concern with this bill, and had not intended to have participated in the debate, as it was under the care of the Military Committee, whose members were every way able to defend it; but, as the Senate had laid it on the table in consequence of his absence, he felt it due to them to state, that he approved of the bill, and would avail himself of this opportunity briefly to state the reasons which induced that opinion.

The subject would naturally divide itself into two views, under which it should be considered: 1st, Have the United States a right to the territory proposed to be settled? and, 2dly, Is it politic now to occupy it in the way proposed by the bill?

On the first point, as to title, he had but little to add to the very full exposition given by the American Plenipotentiary to the Court of St. James. He thought, by a comparison of that state paper with the counter statement of the representative of that court, there could be no difficulty in saying, that the claim of Great Britain, as to the territory on the Oregon, was without foundation. If, as Mr. B. believed, America, in the spirit of friendship and forbearance, had made a sacrifice to Russia of five degrees of her just claims on the Northwest coast, and in the same spirit had been willing to make an equal sacrifice to Great Britain, he hoped on her part she would eagerly seize this proof of good will, and close with the terms proposed. Be that as it may, the United States can yield no further. As a consequence, our claim must be held as unquestionable many degrees to the North of the proposed settlement. As a matter of curiosity, and indeed as connected with the question in hand, one may be permitted to recur to the pretensions of the European nations to the different portions of the new world. Spain, under whom we claim, has unquestionably the undivided credit of its first discovery, and, to the extent to which this fact goes, the best title—to which she superadded the grant of the head of the christian world, in the person of the Pope: and however ridiculous the latter may seem at this time, at the time of the exercise of this high prerogative, it was respected by the civilized world. This respect, however, yielded eventually to cupidity, and the other nations of Europe proceeded to appropriate such portions as accident or circumstances enabled them, in opposition to the claims and the protests of Spain. The opposing claims were sometimes adjusted by rules established *pro re nata*. Sometimes merged in contemporary subjects of contest in Europe, or, finally, if there were any rule generally acquiesced in, it was discovery and actual occupation. Now, by the correspondence before referred to, by whatever test our claim to the territory in question shall be decided, it seems obvious that that of the United States is not to be shaken. As every gentleman is in possession of that correspondence, a more particular reference is deemed unnecessary.

Passing to the second view of the subject, Is it politic now to occupy it, in the way proposed by the bill? we must inquire what are the probable advantages or disadvantages.

The bill proposes a military establishment only on the banks of the Oregon. Its advantage is obvious, as it regards our navigating interest in time of peace. When we advert to the extent of this interest on the Pacific already, and its probable future increase, a friendly asylum, which will be furnished by this establishment, to which our vessels can repair, in an otherwise strange, distant, and perhaps hostile region, must contribute alike to their comfort and safety.

If, from the ocean we look to the interior, and to the great and diversified territory washed by the Oregon, this settlement, as a depot for commerce, must be full of advantage. Advantages of such a position, in the event of war, are too obvious to be enumerated. What are the disadvantages to be objected to it? An unwieldy extent of empire! What is meant by this objection? If

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you will not settle it yourselves, give it up to some of the European nations—either will take it off your hands, and quiet your scruples on this head. But no American Senator will propose this. What then? Is it to be kept as a jungle for wild beasts? No. It is not in the order of Providence. The earth was designed for man. It is not in human power, if it were wished, to prevent the consummation of the design. Fifty years ago and the valley of the Mississippi was like the present condition of the country of the Oregon. It is now teeming with a mighty population—a free and happy people. Their march onward, therefore, to the country of the setting sun, is irresistible. I will not disguise that I look with the deepest anxiety on this vast extension of our empire, as to its possible effects on our political institutions. Whatever they may be, however, our forefathers decided the experiment should be made. When it was determined to annex the vast region of which the country in question is a part, to the old states, that question must have been deliberately weighed, and, in that determination, our destinies, whatever they may be, were placed, in this particular, beyond our control. While I look with anxiety, sir, it is mingled with a strong hope—the hope of the future rests on the strong foundation of the experience of the past.

Our advance in political science has already cancelled the dogmas of theory. We have already ascertained, by the happy combination of a National and State Governments, but above all, by a wise arrangement of the representative system, that republics are not necessarily limited to a small territory—and that a Government, thus arranged, produces not only more happiness, but more stability and more energy, than those the most arbitrary. Whether it is capable of indefinite extent, must be left to posterity to decide. But, in the most unfavorable result, a division, by necessity, from its unwieldy extent—an event, I would devoutly hope, is afar off—we even then can console ourselves with the reflection, that all the parts of the great whole will have been peopled by our kindred, carrying with them the same language, habits, and unextinguishable devotion to liberty and republican institutions.

Mr. DICKERSON, of New Jersey, said, he had hoped, that, before gentlemen opposed to this bill, should be called upon for their reasons against it, the Senate would have heard from its friends all the arguments that can be urged in its favor. The gentleman from Virginia, (Mr. BARBORN,) has mentioned its importance to our trade in the Pacific in general terms, said Mr. D. without descending to any detail of facts or circumstances. He also stated that we had already acquired this territory of Oregon—we should have deliberated when we so acquired it—not now—that it was impossible to stop the march of population in that region—and that it was our duty to provide for extending such population, which, in that gentleman's opinion, was a sufficient reason for passing the present bill.

It is true, that, by the operation of certain causes, we have acquired this territory; but that circumstance surely imposes upon Congress no obligation to provide for its occupation or population, unless the interests of the United States should require it. To that country we owe nothing. By the present bill, that portion of country lying on the Pacific Ocean, North of the 42d degree of North latitude, and West of the Rocky Mountains, is to be erected into the territory of Oregon, without defining its Northern boundary. The President to occupy the same with a military force, and cause a suitable fortification to be erected. The Indian title to be extinguished for a tract not exceeding thirty miles square, or nine hundred square miles. To erect a port of entry within and for said territory, whenever he shall think the public good may require it, and to appoint such officers as may be necessary for the same; after which, the revenue laws of the United States shall ex-

tend to, and be in full force in, said territory. It is true, the bill does not provide for the appointment of a Governor or Judges of this territory: but these no doubt are to follow. The present is but an incipient step in a much more extensive plan of populating and settling that country, as we may collect from the original bill as laid upon our tables; and even this is but a part of the whole plan, as this would include a chain of posts from Council Bluffs to the mouth of Columbia River.

In all these points of view, it is a bill of the highest importance.

As yet, we have extended our laws to no territories, but such as were or are to become states of the Union. We have not adopted a system of colonization, and it is to be hoped we never shall. Oregon can never be one of the United States. If we extend our laws to it, we must consider it as a colony.

The period never will arrive when it will be proper to adopt the measures proposed by the friends of the present bill; but, if ever, this is certainly not the time: because their adoption now would interfere with existing relations between the British Government and ours.

The territory of Oregon is bounded on the South by latitude 42, as by our treaty with Spain. On the North, the Russians renounce all claim to the country South of latitude 54° 40'. We think our claim incontestible as far as the 49th parallel of latitude, supported by the cession of Spain in 1819: by the discovery of the mouth of the Columbia River by sea, and afterwards by Lewis and Clark over land, and by an actual settlement at the mouth of the Columbia in 1811. This would leave the British Government a belt of 5 deg. 40' of latitude from the Rocky Mountains and the Ocean, between our possessions and those of Russia; an arrangement, it is to be presumed, not altogether satisfactory to the British Government, and which, indeed, could be of very little importance to them. They have already extended their settlements to a point on the Columbia River, and we know they have set up a pretence of claim to all that part of the territory lying North of the Columbia to its mouth. It would have been desirable that they should have been parties in our treaty with Russia; but in this they refused to take a part. The extent of their claim is not to be ascertained or limited by Congress; but our commercial treaty with that Government certainly recognizes a claim to some part of that territory, without defining what part. By the 3d article of that treaty, it is agreed, "That any country that may be claimed by either party, on the Northwest Coast of America, Westward of the Stony Mountains, shall, together with its harbors, bays, and creeks, and the navigation of all rivers within the same, be free and open for the term of ten years from the date of the signature of the convention, to the vessels, citizens, and subjects of the two powers; it being well understood, that this agreement is not to be construed to the prejudice of any claim which either of the two high contracting parties may have to any part of said country, nor shall it be taken to affect the claims of any other power or state to any part of the said country; the only object of the high contracting parties in that respect being to prevent disputes and differences among themselves."

This treaty expires in 1828, until which period, it will be highly improper to take possession of this territory by military force, or to establish a port of entry there, or, indeed, to exercise any act of possession or occupation we did not exercise at the period of making this treaty; more especially in that part of the territory to which the British Government laid claim, however unfounded.

The President, by this bill, is to take possession, by a military force, of the Oregon territory. We claim up to the Russian line, latitude 54° 40', but consider our right incontestible to latitude 49. The President must, therefore, take possession up to that parallel. He is to cause

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a fort to be erected on Oregon River, on the left or the right bank, as he shall deem it expedient, and cause the Indian title to be extinguished to a tract of land thirty miles square, or 900 square miles, including said fort, and which ought to include both banks of the river, and include a considerable portion of country claimed by the British Government, but which, under the provisions of our treaty, they have not thought themselves authorized to occupy by a military force. Our port of entry may be erected at Nootka Sound, and our revenue laws extended to every part of the territory.

As yet the British Government have done nothing to contravene the provisions of this treaty, but will they quietly look on and see us take military possession of this territory, make our establishments, purchase the Indian title to 900 square miles, erect fortifications, and establish ports of entry? By our treaty, the country is to remain open without prejudice to the claims of either party, in order to prevent disputes. But is this measure calculated to prevent disputes? On the contrary, will it not lead to immediate collisions with the British Government? Will they not also take military possession of this territory? erect fortifications, purchase the Indian title, and establish ports of entry? We cannot steal a march upon them; they are always on the alert—we shall gain nothing by this hasty, this uncalculated measure. At all events, before we proceed further, let us ascertain by negotiation, not by military force, our respective parts of this territory. If we are entitled to the whole of it, by amicable adjustment, if possible, or, if we must enforce our rights, by military occupation, let it not be done till all other means have failed. It is to be presumed the British Government are willing to enter into negotiations for settling our respective boundaries in that territory. Should the negotiation occupy many years, it ought to excite no regret, as it would give the unhappy natives of that region, a little more time to breathe upon the face of the earth, before the final process of extermination, by means of a white and civilized population, shall take place. No doubt the British Government would willingly renew the third article of the treaty of 1818 for ten years more, to prevent disputes. And if the two Governments would make a perpetual treaty, to take no further possession of that territory, than they now have, or that might be necessary for the purposes of trading with the Indians, they would do more for the cause of humanity, than has been done in the present age.

In 1810 we had a settlement at the mouth of the Columbia river, called Astoria, which the British took from us during the late war—it was, however, delivered up to us under the first article of the treaty of Ghent, and, whoever may be the private owners of the property there, the possession is in the United States, and may now be occupied as it was before the war. As yet, we have sent no military force there. What is the immediate pressure for such a force at this time? To protect our ships engaged in the whaling and fishing, and in the fur trade, and taking of sea otters. The whales are caught in the Southern latitudes, and all the sea otters we shall ever take upon the coast of the Oregon territory, would not pay the expense of marching a single company across the Rocky Mountains.

What little commerce we may have upon that coast, will be much better protected by three or four ships of our Navy, than by any fortification on Oregon river. We have now in the Pacific Ocean the Frigate United States, sloop of war Peacock, and schooner Dolphin, and can send more there if necessary.

But is this territory of Oregon ever to become a state, a member of this Union? Never. The Union is already too extensive—and we must make three or four new states from the territories already formed.

The distance from the mouth of the Columbia to the mouth of the Missouri, is 3,555 miles—from Washington

to the mouth of the Missouri, is 1,160 miles—making the whole distance from Washington to the mouth of the Columbia River, 4,703 miles—but say 4,650 miles. The distance, therefore, that a member of Congress of this State of Oregon, would be obliged to travel, in coming to the seat of Government and returning home, would be 9,300 miles; this, at the rate of eight dollars for every twenty miles, would make his traveling expenses amount to 3,720 dollars. Every member of Congress ought to see his constituents once a year. This is already very difficult for those in the most remote parts of the Union. At the rate which the members of Congress travel according to law, that is, twenty miles per day, it would require, to come to the Seat of Government, from Oregon, and return, 465 days; and if he should lie by for Sundays, say 66, it would require 531 days. But, if he should travel at the rate of 30 miles per day, it would require 306 days. Allow for Sundays, 44, it would amount to 350 days. This would allow the member a fortnight to rest himself at Washington, before he should commence his journey home. This rate of travelling would be a hard duty, as a greater part of the way is exceedingly bad, and a portion of it over rugged mountains, where Lewis and Clarke found several feet of snow in the latter part of June. Yet a young, able-bodied Senator might travel from Oregon to Washington and back once a year; but he could do nothing else. It would be more expeditious, however, to come by water round Cape Horn, or to pass through Behring's Straits, round the North coast of this Continent to Baffin's Bay, thence through Davis's Straits to the Atlantic, and so on to Washington. It is true, this passage is not yet discovered, except upon our maps—but it will be as soon as Oregon shall be a State.

But how could a revenue be derived from such a state, or supplies sent to it, but at an enormous expense? Every portion of strength given to this state, from the other parts of the Union, would so far weaken the Union; and this territory, when it shall obtain the strength and importance of a state, will fall off from the Union by its own weight.

Is this territory to be a colony? Have we a surplus population that we wish to send from our country? So far from that, we have hundreds of millions of acres of fertile lands, within the boundaries of our present States and Territories, that remain unoccupied for want of a population to take possession of them. While this is the case, shall we be holding out inducements to our citizens to seek settlements in the remote parts of the earth.

If we plant a colony at Oregon, we must protect it, and that at an enormous expense. And what advantage can we expect in return? Surely none. We form a vulnerable point where our enemy can easily reach us, and where it will be very difficult to defend ourselves. The British, last war, took from us our settlement at Astoria. This was a matter of but little importance. But if we had possessed a city there of 30,000 inhabitants, we should have expended millions for its defence, and, after all, probably have lost it.

Will this colony afford us any very important commercial advantages? Are we to supply it with manufactures? It will be a long time before we supply ourselves. We import, for our own consumption, annually, of foreign manufactures, more than the amount of five and twenty millions of dollars. Are we to have great advantages in the fur trade with the natives of that region? As soon as we establish a white population in Oregon, who will drive the Indians back to the Rocky Mountains, that trade will cease.

To carry the provisions of this act into effect, the sum of 50,000 dollars has been agreed to, as contained in the bill from the House of Representatives. This sum has, however, been struck out, for the purpose of inserting a larger. A sum ten times larger will be required before the objects of the bill can be carried fully into ef-



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fect. In a report of the 23d Feb. 1824, we have an estimate of the expense of transporting 200 troops from Council Bluffs to the mouth of Columbia river, at 44,000 dollars. It is fair to judge of the future by the past.—The expense of the Yellow Stone expedition is a case in point. The transportation of 145 tons of provisions, munitions of war, &c. by the steam boat Expedition—145 tons by the steam boat Jefferson—75 tons by the steam boat Johnson, with 300 troops, chiefly from the mouth of the Missouri to Council Bluffs, 650 miles, cost the United States 255,000 dollars. There were other charges attending the expedition, to a large amount, so that it may be estimated that the transportation of our troops to Council Bluffs, with all the necessary supplies, munitions of war, &c. cost us at the rate of nearly a thousand dollars per man.

If we send men enough to Oregon to defend themselves, and establish military posts from Council Bluffs to the mouth of Columbia river, we ought to appropriate half a million of dollars, as a beginning.

The third article of the treaty of 1818 was evidently intended to suspend, for ten years, any further acts of possession or occupation, than had then taken place. This seemed necessary, to prevent disputes between the parties. Humanity had nothing to do with this arrangement. Had the object been to protect the native owners of the soil from the encroachments of a white population, a civilized population, an exterminating population, it would have been in the highest degree honorable to the contracting parties. Would to Heaven there was a perpetual decree, that should forever secure to the aborigines of that soil, the quiet possession of the country they now enjoy. If that were the case, it would be easy for the United States to adopt a plan, by which a region of at least two hundred and fifty thousand square miles might be secured as an abiding place for three hundred thousand of the native children of the forest, who are otherwise doomed, in a short period, to be swept from the face of the earth, by the same civilized population that have exterminated the numerous tribes that once possessed the Atlantic States.

From the meridian of Council Bluffs there is an immense region, extending to the Rocky Mountains, containing about 160,000 square miles, which, from the sterility of the soil, the want of wood and water, can never be cultivated, and, of course, never admit of a civilized population. An accurate description of this region may be found in Major Long's Expedition, vol. II, page 350. After describing this country, he says, in page 361—

"In regard to this extensive section of country, I do not hesitate in giving the opinion that it is almost wholly unfit for cultivation, and of course uninhabitable by a people depending upon agriculture for subsistence. Although tracts of fertile land, considerably extensive, are occasionally to be met with, yet the scarcity of wood and water, almost uniformly prevalent, will prove an insuperable obstacle in the way of settling the country. This objection rests not only against the immediate section under consideration, but applies, with equal propriety, to a much larger portion of the country. Agreeably to the best intelligence that can be had concerning the country both northward and southward of the section, and especially to the inferences deducible from the account given by Lewis and Clark, of the country situated between the Missouri and the Rocky Mountains, above the River Platte, the vast region commencing near the sources of the Sabine, Trinity, Brasis, and Colorado, and extending northwardly to the 49th degree of north latitude, by which the United States' territory is limited, in that direction, is, throughout, of a similar character. The whole of this region seems peculiarly adapted as a range for buffaloes, wild goats, and other wild game, incalculable multitudes of which find ample pasturage and subsistence upon it."

"This region, however, viewed as a frontier, may

prove of infinite importance to the United States, inasmuch as it is calculated to serve as a barrier to prevent too great an extension of our population westward, and secure us against the machinations or incursions of an enemy, that might be disposed to annoy us in that quarter."

It would seem that nature had secured this last refuge to the tribes inhabiting this vast region, but this will fail them, if we protect our trappers and hunters by an armed force, who are traversing every part of this region, destroying the beaver and buffalo, and which must effectually destroy the native inhabitants by taking from them their very means of subsistence.

The Rocky Mountains, and inhospitable regions adjoining them, within our boundaries, may be estimated at 40,000 square miles, making, in all, 200,000 square miles of country, which will never admit of a white population. Add to this about 50,000 square miles of territory, lying between the Rocky Mountains and the Western Ocean, which, although susceptible of a white population, may be permanently secured by treaties and conventions to the natives of the soil. This would altogether form a region of 250,000 square miles—a very small portion of the immense continent, which, three centuries ago, belonged exclusively to the red men of the then Western world.

The different tribes between the meridian of Council Bluffs and the Rocky Mountains, may be estimated at 120,000 souls; those West of the Rocky Mountains, at 80,000. If they were made secure, in the possession of this territory, their population would increase; and a part of the remnants of the tribes now in the bounds of the States, would, with the aid of our government, remove into this reserved territory, where they could hope to rest in peace. From a late message of the President of the United States, it appears, that the whole number of Indians remaining in our States and Territories may be estimated at 129,000, all of whom, it is desirable, should remove beyond the Mississippi. It is probable that as many as 80,000 of them may be induced to remove beyond the meridian of Council Bluffs; the residue will probably remain till they gradually become extinct, as numerous and once powerful tribes have already done in the Atlantic States. This would make a population, for a region of 250,000 square miles, of 300,000 souls.—The British Government are famed for their magnificent plans for ameliorating the condition of the human race. Would they not readily join the government of the United States in any measure that might be necessary to secure the whole territory claimed by both parties West of the Rocky Mountains to the present possessors of the soil? It is an object worthy of the united exertions of the two governments—of the united exertions of Europe and America. No object so interesting to humanity has presented itself to the present age—we have institutions for the colonization of our black population—for extending the benefits of religion and civilization to the most remote parts of the earth—while the miserable remnants of the innumerable tribes that once possessed this whole continent, seem doomed to be swept from the face of the earth, by the irresistible flow of a white, civilized, Christian population, without one great effort to save them. To this abused race we owe an immense debt, only to be obliterated by their extermination, which will happen in a short period, unless the civilized world will extend the means of preservation. Of the numerous tribes that once traversed the Atlantic States, the proud and fearless owners of the soil—Where are they now? With those who lived before the flood. In all the old states, except Georgia, there are to be found no more than 8,000 souls of this unhappy race. The residue exterminated, except a few who have retreated beyond the Alleghany Mountains, and who still linger in this world, to lament their wretched condition, and to relate the melancholy history of their wrongs.

We have lately passed a law for the preservation of

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the Indian tribes within the United States, by which a permanent residence is to be provided for them West of the State of Missouri and the Territory of Arkansas, provided they will consent to be transferred to this region; and the faith of the nation is to be pledged, that they shall be permanently protected in the peaceable possession of this country. If we should permit them to possess the country eastward of the meridian of Council Bluffs, and bounded on the South by the Arkansas Territory, on the East by the State of Missouri and the Mississippi river, and the Red river, up to the latitude of 49, it would be an addition of thirty or forty thousand square miles to the region already described, and furnish a safe, ample, and happy retreat to all the tribes who shall think proper to embrace the offers of our government. As to the Oregon Territory, it can never be of any pecuniary advantage to the United States, but it may be made the means of promoting, in a most signal manner, the cause of humanity; and this is the best possible disposition that can be made of it; while the worst would be the adoption of the provisions of the present bill.

Mr. D. concluded by moving that the bill lie on the table, which was carried. Ayes 19, Noes 17.

The following message was received from the President of the United States:

*To the Senate of the United States:*

Just before the termination of the last session, an act entitled "An act concerning wrecks on the coast of Florida," which was then proposed, was presented to me, with many others, and approved, and, as I thought, signed. It appeared, however, after the adjournment that the evidence of such approbation had not been attached to it. Whether the act may be considered in force under such circumstances, is a point on which it belongs not to me to decide. To remove all doubt on the subject, I submit to the consideration of Congress, the propriety of passing a declaratory act to that effect.

JAMES MONROE.

Feb. 26, 1825.

The Senate then passed an hour in the consideration of Executive business; after which, various acts brought over from the other House, severally received their first reading.

The Senate proceeded, as in committee of the whole, to consider the bill granting the consent of Congress to the act of the Legislature of Alabama, authorizing the imposition of duties on vessels, for the improvement of the port of Mobile.

The act of the Legislature of Alabama having been read—

Mr. LLOYD, of Mass. opposed the bill, on the ground of its being a direct violation of the ninth section of the Constitution, which declares that no preference shall be given by any regulation of commerce, or revenue, to the ports of one state over those of another; nor shall vessels bound to, or from one state, be obliged to enter, clear, or pay duties in another.

If a vessel were to leave New York for Mobile, it would have to pay tonnage duty twice; but reverse the case, and the vessel departing from Mobile would only pay duty once. This was giving a preference to one port over another; and the consequence of this bill would be that the harbors of the South would be built up and cleaned out at the expense of the North.

Mr. KING, of Alab. and Mr. BROWN, supported the bill, referring to various precedents, and arguing its constitutionality from the 10th section of the Constitution, where it is declared that no state shall, without the consent of Congress, lay any imposts or duties on imports or exports. They were acting in strict compliance with the constitution, in seeking the approbation of Congress to the measure. They showed the advantages which would be derived by the port of Mobile by the passing

this bill. It only applied to vessels drawing a certain depth of water, and would, when its object was accomplished, expire of itself.

Mr. SMITH made a few remarks, but did not oppose the bill, as the Legislature of Alabama had given their consent to the measure.

Mr. HOLMES, of Maine, was satisfied of the constitutionality of the measure, but thought the duties intended to be imposed were too high. To give time, therefore, to prepare an amendment, he moved that the Senate adjourn.

The Senate then, at half past three, adjourned.

#### HOUSE OF REPRESENTATIVES.—SAME DAY.

Mr. VINTON, from the Committee on the Public Lands, made a report in favor of the following resolution, viz.:

"That the several states which have been admitted into the Union, under any compact prohibiting such states from laying and collecting a tax on land for five years next succeeding the sale of such land by the United States, shall be severally permitted, whenever they may deem it expedient, to subject all lands, hereafter sold by the United States, within their respective limits, to the same tax that they may levy and collect on lands not subject to the provisions of such compacts."

The resolution was ordered to lie on the table.

Mr. M'KIM moved to take up the bill to extend the privilege of deposit in public and other storehouses; but the House refused, ayes 56, noes 64, to consider that bill.

The House then went into committee of the whole, Mr. M'COY in the chair, on the bill to exempt the President, Faculty, and Students, of the Columbian College, from militia duty.

The bill having been read, Mr. WICKLIFFE, in order to test the sense of the House in relation to its principle, moved to strike out the first section.

The motion was opposed by Mr. HAMILTON, who, after some general observations on the importance and value of seminaries of learning, observed, that this bill only extended the same exemption to the students of the College in this District, which was allowed by the laws of New York, of Massachusetts, of Vermont, and, indeed, of almost all the states, to persons similarly situated, in those states. The committee who reported the bill had been cautious to insert a clause securing the service of the students in cases of necessity. He represented the pernicious effects of attending a military parade, on the minds of young lads engaged in their studies, and argued the propriety of exempting both them and their instructors from such attendance.

The motion to strike out the first section of the bill was then put, and negatived.

Mr. BRENT moved to amend the bill, by making its provisions apply to the Georgetown College, and all other seminaries of learning in the District; which, after some discussion between Messrs. BRENT, WHIPPLE, and CULPEPER, was agreed to.

The bill was then reported, and ordered to be engrossed for a third reading on Monday.

#### IN SENATE—MONDAY, FEBRUARY 28, 1825.

Mr. HAYNE, of South Carolina, submitted the following resolution:

"Resolved by the Senate of the United States, That Congress possesses no power to appropriate the public land of the United States "to constitute and form a fund to aid the emancipation of slaves," within any of the United States, or "to aid the removal of such slaves;" and that, to constitute such a fund, or, "to pledge the faith of the United States," for the appropriation thereof towards these objects, would be a departure from the

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conditions and spirit of the compact between the several states; and that such measures would be dangerous to the safety of the states holding slaves, and be calculated to disturb the peace and harmony of the Union."

Mr. HAYNE said, that, in asking the leave of the Senate to lay the foregoing resolution on the table, he was calling their attention to a subject of the most vital importance to those whom he had the honor to represent, and closely connected with the rights and interests of the Southern states. It would be recollected that a resolution had been submitted a few days ago, by an honorable gentleman from New York (Mr. KING,) which proposed, (*without any request from the states, or any call by them on the General Government for aid,*) to set apart, and pledge a fund, for the emancipation and removal from the United States, "of such slaves as, by the laws of the states, respectively, may be allowed to be emancipated and removed;" which resolution had been laid upon the table, with a declaration, that it was not to be called up for consideration. This course had put it out of the power of the Southern members, whose constituents were deeply interested in the proposition, to show the unconstitutional character and dangerous tendency of measures of this nature. The only course which was left them to pursue, was to lay on the table a counter resolution, intended as a *solemn protest* against any unsolicited interference on the part of the Federal Government, with the subject, which properly belonged to the states, and which involved not only the peace but the existence of those states—a subject with which it was conceived the Federal Government had nothing to do, and concerning which Congress could not possess that species of information necessary to wise and safe legislation.

The resolution was laid on the table accordingly.

#### HOUSE OF REPRESENTATIVES.—SAME DAY.

Mr. WEBSTER, from the Committee on the Judiciary, reported a bill "concerning wrecks on the coast of Florida."

Mr. WEBSTER explained the circumstances under which the bill came before the House. It was the bill to which the President refers in his message, as having been passed and approved last session, but omitted to be signed. The opinion of the Judiciary Committee was, that the bill had no validity until signed by the President, and they therefore now reported the bill in its original form, but having a prospective operation only.

Mr. CALL stated that the act had been understood as in force, and had, in its operation, produced a large revenue to the United States.

The bill was ordered to be engrossed for a third reading this day.

Mr. MERCER laid on the table the following:

*Resolved*, That the President of the United States be requested to enter upon, and prosecute, from time to time, such negotiations with the maritime powers of Europe and America, as he may deem expedient for the effectual abolition of the Slave Trade, and its ultimate denunciation as piracy, under the law of nations, by the consent of the civilized world.

This resolve lies for one day of course.

Mr. CONWAY, of Arkansas, offered the following:

*Resolved*, That the President of the United States be requested to cause a survey to be made of the obstructions in Red River, usually denominated Rafts, and cause an estimate of the expense necessary to remove the same to be laid before Congress at the next session.

Mr. CONWAY stated what had formerly been done on this subject, and explained the object of the resolution.

Mr. McDUFFIE opposed the resolution, as it gave special instructions to the Executive on a general sub-

ject. All the Engineers would be employed on more important objects, already undertaken, and none could be spared. He suggested that the resolution be modified so as to let the officers of the army in the neighborhood be employed on this object.

Mr. CONWAY accepted the modification.

Mr. LIVINGSTON advocated the resolve, and Mr. SHARPE opposed it as unnecessary, and moved to lay it on the table; which was carried.

[IN SENATE.—TUESDAY, MARCH 1, 1825.]

#### POST OFFICE REGULATIONS.

The Senate took up the bill from the other House "to reduce into one the several acts establishing and regulating the Post Office Establishment."

The Committee on the Post Office, amongst other amendments, proposed to strike out the provision which allows the exchange of papers between newspaper printers, free of postage.

This amendment was briefly opposed by Mr. HAYNE and Mr. LOWRIE, and supported by Mr. CHANDLER, and was rejected without a division.

A considerable time was spent by the Senate in discussing the numerous provisions of this bill. Among the proceedings, the following were the most material:

The bill proposed to give to members of Congress the right of franking for sixty days before and sixty days after each session of Congress. This period Mr. MACON moved to reduce to twenty days before and after each session.

This motion was opposed by Messrs. JOHNSON, of Ken. CHANDLER, and HOLMES, of Maine, on the ground that the right was not conferred as a personal benefit, but to enable members to receive and transmit letters relating to public business, of their constituents, &c.

Mr. MACON supported his motion on the ground of principle, and an adherence to the original rule of the Government.

The amendment was negatived without a division.

On motion of Mr. MACON, "assistant postmasters and clerks, employed in any post office," were included in the prohibition, which restricts postmasters from being concerned in any contract for carrying the mail.

Mr. PARROTT made an unsuccessful motion to allow to the Inspector Generals of the Army the privilege of franking letters on official business.

After some minor amendments to the bill, it was reported to the Senate.

The question was taken on striking out the following section of the bill:

"That it shall be the duty of every postmaster, who shall hereafter resign his office, to give twenty days' notice of his intention to do so, which notice, if there be no newspaper published at the place where he shall keep the office, he shall put up in writing, on the door of the post office, and at the doors of at least two of the most public houses convenient thereto: But, if there be a newspaper published in the city, town, or village, where such office is kept, then such notice shall be inserted at least twice in said paper within said twenty days."

And it was stricken out by a large majority.

The bill, as amended, was then ordered to a third reading.

#### OCCUPATION OF THE OREGON.

Mr. HAYNE renewed the motion to take up the bill authorizing the occupation of the mouth of the Oregon river. He thought that justice required that an opportunity should be given to the gentleman from Missouri, (Mr. BENTON,) to answer the statements and arguments delivered by Mr. DICKENSON against the bill. It was a matter of public interest that the information which he

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possessed on the subject should go to the public; and as soon as that gentleman should have submitted his views to the Senate, Mr. H. said he would agree to postpone the bill.

Mr. CHANDLER opposed the taking up the bill, for the reasons he had before stated. He thought it was best to get first on the business necessary to be passed, and then would be a very good time to debate a bill which there was no intention of passing during the present session.

The motion to take up the bill prevailed; and the Senate went into committee of the whole on it, Mr. ELIOTT in the chair.

Mr. BENTON, in reply to Mr. DICKERSON, said, that he had not intended to speak to this bill. Always unwilling to trespass upon the time and patience of the Senate, he was particularly so at this moment, when the session was drawing to a close, and an hundred bills upon the table were each demanding attention. The occupation of the Columbia River was a subject which had engaged the deliberations of Congress for four years past, and the minds of gentlemen might be supposed to be made up upon it. Resting upon this belief, Mr. B. as reporter of the bill, had limited himself to the duty of watching its progress, and of holding himself in readiness to answer any inquiries which might be put. Inquiries he certainly expected; but a general assault, at this late stage of the session, upon the principle, the policy, and the details of the bill, had not been anticipated. Such an assault, had, however, been made by the Senator from New Jersey, (Mr. D.) and Mr. B. would be unfaithful to his duty if he did not repel it. In discharging this duty, he would lose no time in going over the gentleman's calculations about the expense of getting a member of Congress from the Oregon to the Potomac; nor would he solve his difficulties about the shortest and best route; whether Cape Horn should be doubled, a new route explored under the North pole, or mountains climbed, whose aspiring summits present twelve feet of defying snow to the burning rays of a July sun. Mr. B. looked upon these calculations and problems as so many dashes of the gentleman's wit, and admitted that wit was an excellent article in debate, equally convenient for embellishing an argument, and concealing the want of one. For which of these purposes, the Senator from New Jersey had amused the Senate with the wit in question, it was not for Mr. B. to say, nor should he undertake to disturb him in the quiet enjoyment of the honor which he had won thereby. Leaving all that out of view, he would proceed directly to expose and confute those parts of the gentleman's argument in which he had favored the pretensions of Great Britain at the expense of the rights and interests of his own country. These parts are—

1st. His admission of title, on the part of Great Britain, to the right bank of the Columbia River.

2d. His declarations that the United States were precluded from occupying the country on the Columbia River by the third article of the London convention of 1818.

3d. His menace of a conflict with Great Britain if we presumed to occupy it.

It is now, Mr. President, continued Mr. B. precisely two and twenty years since a contest for the Columbia has been going on between the United States and Great Britain. The contest originated with the discovery of the river itself. The moment that we discovered it, she claimed it; and without a color of title in her hand, she has labored ever since to over-reach us in the arts of negotiation, or to bully us out of our discovery by menaces of war.

In the year 1790, a citizen of the United States, Capt. Gray, of Boston, discovered the Columbia at its entrance into the sea; and in 1803, Lewis and Clarke was sent by the Government of the United States, to complete the

discovery of the whole river from its source downwards, and to take formal possession in the name of their Government. In 1793, Sir Alexander M'Kenzie had been sent from Canada by the British Government to effect the same object; but he missed the sources of the river, fell upon the *Tacoutche Tesse*, and struck the Pacific about five hundred miles to the North of the mouth of the Columbia.

In 1803, the United States acquired Louisiana, and with it an open question of boundaries for that vast province. On the side of Mexico and Florida, this question was to be settled with the King of Spain; on the North and Northwest with the King of Great Britain. It happened in the very time that we were signing a treaty in Paris for the acquisition of Louisiana, that we were signing another in London for the adjustment of the boundary line between the Northwest possessions of the United States and of the King of Great Britain. The negotiators of each were ignorant of what the others had done; and on remitting the two treaties to the Senate of the United States, for ratification, that for the purchase of Louisiana was ratified without restriction; the other with the exception of the fifth article. It was this article which adjusted the boundary line between the United States and Great Britain, from the Lake of the Woods to the head of the Mississippi; and the Senate refused to ratify it, because, by possibility, it might jeopard the Northern boundary of Louisiana. The treaty was sent back to London, the fifth article expunged; and the British Government, acting then as upon a late occasion, rejected the whole treaty, when she failed in securing the precise advantage of which she was in search.

In the year 1807, another treaty was negotiated between the United States and Great Britain. The negotiators on both sides were then possessed of the fact, that Louisiana belonged to the United States, and that her boundaries to the North and West were undefined. The settlement of this boundary was a point in the negotiation, and continued efforts were made by the British Plenipotentiaries to over-reach the Americans, with respect to the country West of the Rocky Mountains. Without presenting any claim, they endeavored "to leave a nest egg for future pretensions in that quarter." (*State Papers, 1822-3.*) Finally, an article was agreed to. The 49th degree of North latitude was to be followed West, as far as the territories of the two countries extended in that direction, with a proviso against its application to the country West of the Rocky Mountains. This treaty shared the fate of that of 1803. It was never ratified. For causes unconnected with the questions of boundary, it was rejected by Mr. Jefferson without a reference to the Senate.

At Ghent, in 1814, the attempts of 1803 and 1807 were renewed. The British Plenipotentiaries offered articles upon the subject of the boundary, and of the Northwest Coast, of the same character with those previously offered; but nothing could be agreed upon, and nothing upon the subject was inserted in the Treaty signed at that place.

At London, in 1818, the negotiations upon this point were renewed; and the British Government, for the first time, uncovered the ground upon which its pretensions rested. Its Plenipotentiaries, Mr. Robinson and Mr. Goulbourn, asserted (to give them the benefit of their own words, as reported by Messrs. Gallatin and Rush,) "That former voyages, and principally that of Captain Cook, gave to Great Britain the rights derived from discovery, and they alluded to purchases from the natives South of the river Columbia, which they alleged to have been made prior to the American Revolution. They did not make any formal proposition for a boundary, but intimated that the river itself was the most convenient that could be adopted, and that they would not agree to any which did not give them the harbor

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at the mouth of the river in common with the United States."—*Letter from Messrs. Gallatin and Rush, October 20, 1820.*

To this the American Plenipotentiaries answered, in a way better calculated to encourage than to repulse the groundless pretensions of Great Britain. "We did not assert, (continue these gentlemen, in the same letters,) we did not assert that the United States had a perfect right to that country, but insisted that their claim was at least good against Great Britain. We did not know, with precision, what value our Government set on the country to the Westward of these mountains; but we were not authorized to enter into any agreement which should be tantamount to an abandonment of the claim to it. It was at last agreed, but as we thought, with some reluctance on the part of the British Plenipotentiaries, that the country on the Northwest Coast, claimed by either party, should, without prejudice to the claims of either, and for a limited time, be opened for the purposes of trade, to the inhabitants of both countries."

The substance of this agreement was inserted in the convention of October, 1818. It constitutes the third article of that Treaty, and is the same upon which the Senator from New Jersey, (Mr. DICKENSON,) relies, for excluding the United States from the occupation of the Columbia.

In subsequent negotiations, the British Agents further rested their claim upon the discoveries of M'Kenzie, in 1793, the seizure of Astoria, during the late war, and the Nootka Sound Treaty, of 1790.

Such an exhibition of title said Mr. B. is ridiculous, and would be contemptible in the hands of any other power than that of Great Britain. Of the five grounds of claim which she has set up, not one of them is tenable against the slightest examination. Cook never saw, much less took possession of, any part of the Northwest coast of America, in the latitude of the Columbia River. All his discoveries were far North of that point, and not one of them was followed up by possession, without which, the fact of discovery would confer no title. The Indians were not even named, from whom the purchases are stated to have been made anterior to the Revolutionary War. Not a single particular is given which could identify a transaction of the kind. The only circumstance mentioned applies to the locality of the Indians supposed to have made the sale, and that circumstance invalidates the whole claim. They are said to have resided to the "South" of the Columbia; by consequence they did not reside upon it, and could have no right to sell a country of which they were not the possessors.

M'Kenzie was sent out from Canada, in the year 1793, to discover, at its head, the river which Captain Gray had discovered at its mouth, three years before. But M'Kenzie missed the object of his search, and struck the Pacific five hundred miles to the North, as I have already stated. The seizure of Astoria, during the war, was an operation of arms, conferring no more title upon Great Britain to the Columbia, than the capture of Castine and Detroit gave her to Maine and Michigan. This new ground of claim was set up by Mr. Bagot, his Britannic Majesty's Ambassador to this Republic, in 1817, and set up in a way to contradict and relinquish all their other pretended titles. Mr. Bagot was remonstrating against the occupation, by the United States, of the Columbia River, and reciting that it had been taken possession of, in his Majesty's name, during the late war, "and had since been considered as forming a part of his Majesty's dominions." The word "since," is exclusive of all previous pretension, and the Ghent Treaty, which stipulates for the restoration of all the captured posts, is a complete extinguisher to this idle pretension. Finally, the British negotiators have been driven to take shelter under the Nootka Sound Treaty of 1790. The character of that

treaty was well understood at the time that it was made, and its terms will speak for themselves at the present day. It was a treaty of concession, and not of acquisition of rights, on the part of Great Britain. It was so characterized by the opposition, and so admitted to be by the ministry, at the time of its communication to the British Parliament.

[Here Mr. B. read passages from the speeches of Mr. Fox and Mr. Pitt, to prove the character of this Treaty.]

"Mr. Fox said, What, then, was the extent of our rights before the convention—(whether admitted or denied by Spain was of no consequence)—and to what extent were they now secured to us? We possessed and exercised the free navigation of the Pacific Ocean, without restraint or limitation. We possessed and exercised the right of carrying on fisheries in the South Seas equally unlimited. This was no barren right, but a right of which we had availed ourselves, as appeared by the papers on the table, which showed that the produce of it had increased, in five years, from twelve to ninety-seven thousand pounds sterling. This estate we had, and were daily improving; it was not to be disgraced by the name of an acquisition. The admission of part of these rights, by Spain, was all we had obtained. Our right, before, was to settle in any part of the South or Northwest Coast of America, not fortified against us by previous occupancy, and we were now restricted to settle in certain places only, and under certain restrictions. This was an important concession on our part. Our rights of fishing extended to the whole ocean, and now it, too, was limited, and to be carried on within certain distances of the Spanish settlements. Our right of making settlements was not, as now, a right to build huts, but to plant colonies, if we thought proper. Surely these were not acquisitions, or rather conquests, as they must be considered, if we were to judge by the triumphant language respecting them, but great and important concessions." "By the third article, we are authorized to navigate the Pacific Ocean and South Seas, unmolested, for the purpose of carrying on our fisheries, and to land on the unsettled coasts, for the purpose of trading with the natives; but, after this pompous recognition of right to navigation, fishery, and commerce, comes another article, the sixth, which takes away the right of landing, and erecting even temporary huts, for any purpose but that of carrying on the fishery, and amounts to a complete dereliction of all right to settle in any way for the purpose of commerce with the natives."—*British Parliamentary History, Vol. 28, p. 990.*

Mr. Pitt, in reply. "Having finished that part of Mr. Fox's speech which referred to the reparation, Mr. Pitt proceeded to the next point, namely, that gentleman's argument to prove, that the other articles of the convention were mere concessions, and not acquisitions. In answer to this, Mr. Pitt maintained, that, though what this country had gained consisted not of new rights, it certainly did of new advantages. We had, before, a right to the Southern whale fishery, and a right to navigate and carry on fisheries in the Pacific Ocean, and to trade on the coasts of any part of Northwest America; but that right not only had not been acknowledged, but disputed and resisted: whereas, by the convention, it was secured to us—a circumstance which, though no new right, was a new advantage."—*Same—page 1002.*

But, continued Mr. BENTON, we need not take the character of the Treaty even from the high authority of these rival leaders in the British Parliament. The Treaty will speak for itself. I have it in my hand, and will read the article relied upon to sustain the British claim to the Columbia River.

*Article 3d, of the Nootka Sound Treaty.*

"In order to strengthen the bonds of friendship, and to preserve, in future, a perfect harmony and good un-



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derstanding between the two contracting parties, it is agreed that their respective subjects shall no be disturbed or molested, either in navigating or carrying on their fisheries in the Pacific Ocean, or in the South Seas, or in landing on the coasts of those seas in places not already occupied, for the purpose of carrying on their commerce with the natives of the country, or of making settlements there, the whole subject, nevertheless, to the restrictions and provisions specified in the three following articles."

The particular clause of this article, relied upon by the advocates for the British claim, is that which gives the right of *landing* on parts of the Northwest Coast, not already occupied, for the purpose of carrying on commerce and making settlements. The first inquiry arising upon this clause is, whether the coast, in the latitude of the Columbia River, was unoccupied at the date of the Nootka Sound Treaty? The answer is in the affirmative. The second is, whether the English landed upon this coast while it was so unoccupied? The answer is in the negative; and this answer puts an end to all pretension of British claim founded upon this treaty, without leaving us under the necessity of recurring to the fact that the permission to *land*, and to *make settlements*, so far from contemplating an acquisition of territory, was limited, by subsequent restrictions, to the erection of temporary huts for the personal accommodation of fishermen and traders only.

The truth is, Mr. President, continued Mr. B. Great Britain has no color of title to the country in question. She sets up none. There is not a paper upon the face of the earth in which a British Minister has stated a claim. I speak of the King's Ministers, and not of the Agents employed by them. The claims we have been examining are thrown out in the conversations and notes of Diplomatic Agents. No English Minister has ever put his name to them, and no one will ever risk his character as a statesman by venturing to do so. The claim of Great Britain is nothing but a naked pretension, founded in the double prospect of benefitting herself and injuring the United States. The fur trader, Sir Alexander McKenzie, is at the bottom of this policy. Failing in his attempt to explore the Columbia River, in 1793, he, nevertheless, urged upon the British Government the advantages of taking it to herself, and of expelling the Americans from the whole region West of the Rocky Mountains. The advice accorded too well with the passions and policy of that government, to be disregarded. It is a government which has lost no opportunity, since the peace of '83, of aggrandizing itself at the expense of the United States. It is a government which listens to the suggestions of its experienced subjects, and thus an individual, in the humble station of a fur trader, has pointed out the policy which has been pursued by every Minister of Great Britain, from Pitt to Canning, and for the maintenance of which a war is now menaced.

[Here Mr. B. read the following passages from Sir Alexander McKenzie's History of the Fur Trade.]

"The Russians, who first discovered that, along the coasts of Asia, no useful or regular navigation existed, opened an interior communication by rivers, &c. and through that long and wide extended continent, to the straight that separates Asia from America, over which they passed to the American continent. Our situation is, at length, in some degree, similar to theirs: the non-existence of a practicable passage by sea, and the existence of one through the continent, are clearly proved, and it requires only the countenance and support of the British Government to increase, in a very ample proportion, this national advantage, and secure the trade of that country to its subjects." "By the rivers that discharge themselves into Hudson's Bay, at Port Nelson, it is proposed to carry on the trade to their source, at the head of the Saskatchewan river, which rises in the Rocky Mountains, not eight degrees of longitude from the Pa-

cific Ocean. The Columbia flows from the same mountains, and discharges itself into the Pacific in north latitude 46 20. Both of them are capable of receiving ships at their mouths, and are navigable throughout for boats." "But whatever course may be taken from the Atlantic, the Columbia is the line of communication from the Pacific Ocean, pointed out by nature, as it is the only navigable river in the whole extent of Vancouver's minute survey of that coast; its banks, also, form the first level country in all the southern extent of continental coast from Cook's entry; and, consequently, the most northern situation, suitable to the residence of a civilized people. By opening this intercourse between the Atlantic and Pacific Oceans, and forming regular establishments through the interior, and at both extremes, as well as along the coast and Islands, the entire command of the fur trade of North America might be obtained, from latitude 48 to the pole, except that portion of it which the Russians have in the Pacific. To this may be added, the fishing in both seas, and the market of the four quarters of the globe. Such would be the field for commercial enterprise, and incalculable would be the produce of it, when supported by the operations of that credit and capital which Great Britain so pre-eminently possesses. Then would this country begin to be remunerated for the expense it has sustained in discovering and surveying the coast of the Pacific Ocean, which is at present left to American adventurers, who, without regularity or capital, or the desire of conciliating future confidence, look altogether to the interests of the moment. Such adventurers, and many of them, as I have been informed, have been very successful, would instantly disappear from before a well regulated trade." "Many political reasons, which it is not necessary here to enumerate, must present themselves to the mind of every man acquainted with the enlarged system and capacities of British commerce, in support of the measures which I have briefly suggested, as promising the most important advantages to the trade of the United Kingdoms."

For a boundary line between the United States and Great Britain, west of the Mississippi, McKenzie proposes the latitude of 45 degrees, because that latitude is necessary to give the Columbia River to Great Britain. His words are: "Let the line begin where it may on the Mississippi, it must be continued west, till it terminates in the Pacific Ocean, to the South of the Columbia."

Mr. B. said, it was curious to observe with what closeness every suggestion of McKenzie had been followed up by the British Government. He recommended that the Hudson Bay and Northwest Company should be united; and they have been united. He proposed to extend the fur trade of Canada to the shore of the Pacific Ocean; and it has been so extended. He proposed that a chain of trading posts should be formed through the continent, from sea to sea; and it has been formed. He recommended that no boundary line should be agreed upon with the United States, which did not give the Columbia river to the British; and the British ministry declare that none other shall be formed. He proposed to obtain the command of the fur trade from latitude 45 degrees north; and they have it even to the Mandan Villages, and the neighborhood of the Council Bluffs.—He recommended the expulsion of American traders from the whole region west of the Rocky Mountains; and they are expelled from it. He proposed to command the commerce of the Pacific Ocean; and it will be commanded the moment a British fleet takes position in the mouth of the Columbia. Besides these specified advantages, McKenzie alludes to other "political considerations," which it was not necessary for him to particularize. Doubtless it was not. They were sufficiently understood. They are the same which induced the retention of the Northwestern posts, in violation of the treaty of 1783; the same which induced the acquisition

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of Gibraltar, Malta, the Cape of Good Hope, the Islands of Ceylon and Madagascar; the same which make Great Britain covet the possession of every commanding position in the four quarters of the Globe.

Mr. B. here adverted to the inconsistency, on the part of Great Britain, of following the 49th parallel to the summit of the Rocky Mountains, and refusing to follow it any further. He affirmed that the principle which would make that parallel a boundary to the top of the mountain, would carry it out to the Pacific Ocean. He proved this assertion by recurring to the origin of that line. It grew out of the treaty of Utrecht, that treaty which, in 1704, put an end to the wars of Queen Anne and Louis the 14th, and fixed the boundaries of their respective dominions in North America. The tenth article of that treaty was applicable to Louisiana and to Canada. It provided that commissioners should be appointed by the two powers to adjust the boundary between them. The commissioners were appointed, and did fix it. The parallel of 49 degrees was fixed upon as the common boundary from the Lake of the Woods, "*indefinitely to the west.*" This boundary was acquiesced in for an hundred years. By proposing to follow it to the summit of the Rocky Mountains, the British Government admits its validity; by refusing to follow it out, they become obnoxious to the charge of inconsistency, and betray a determination to encroach upon the territory of the United States, for the undisguised purpose of selfish aggrandizement.

Mr. B. would not argue the title of the United States to the same country. He would barely state it, and affirm that it was consecrated by every requisite which gives validity to the claims of nations. It rested upon,

1. Discovery of the Columbia river, by Capt. Gray, in 1790.

2. Purchase of Louisiana in 1803.

3. Discovery of the Columbia, from its head to its mouth, by Lewis and Clark, in 1805.

4. Settlement at Astoria in 1811.

5. Treaty with Spain of 1819.

By these several titles the United States have collected into her own hands all the rights conferred by first discovery and first settlement, reinforced by all the claims of France and Spain.

The discovery of the Columbia, from the sea, in 1790, was the act of an American citizen. Captain Gray, of Boston, sailing under the flag of the United States, was the first navigator that ever saw or entered that river. He took possession of it in the name of his country, bestowed upon it a name which is national in the United States, which has been recognized by all the powers of Europe, and which, in itself, constitutes a badge of our ownership. The purchase of Louisiana gave us all the rights of Spain west of the Mississippi. If it is objected that Louisiana cannot be pushed to the Pacific Ocean, it may be answered that she may be pushed at least as far as Canada can be. The British push their Canadian title indefinitely to the West; Louisiana can go as far. No American statesman would rest a title to the Northwest coast upon the naked purchase of Louisiana; but he would present it as a set-off to any British claim founded upon the protrusion of Canada into the valley of the Columbia. The discoveries of Lewis and Clark were strictly national. They were officers in the service of the United States. They wore its commission, bore its flag, marched at the head of its soldiers, and did all their acts in the name of their country. They followed the Columbia from its source to its mouth, established friendly relations with numerous Indian tribes, took formal possession of the whole country, and bestowed American names, badges of sovereignty, upon every considerable stream and mountain. In 1811, a body of American citizens, sixty or eighty in number, crossed the continent from St. Louis to the mouth of the Columbia, met another party which had come round by sea, and founded the establishment of Astoria. By this

act the title of the United States was consummated. Possession, without which discovery would confer no absolute right, now completed her title; and this settlement, as an American post, was attacked and captured by the arms of Great Britain during the late war. Finally, the treaty of 1819, with Spain, by which we acquired all her rights north of 42 degrees, invested the United States with all the claims which that power possessed to the Northwest coast. Mr. B. would not consume the time of the Senate in tracing the titles of Spain. They were universally known to have been valid against Russia to latitude 58, and against England, throughout its whole extent.

Having disposed of the questions of title, Mr. B. took up the next point of inquiry, that of possession.

On this point he took four positions.

1. That the United States had the *right* of possession.

2. That Great Britain had the *actual* possession.

3. That she *resists* the possession of the United States.

4. That, after the year 1828, the party in possession will have the *right* of possession until the question of title shall be decided by arms or negotiation.

1. On the first point, the *right* of possession on the part of the United States, Mr. B. should not have thought it necessary to say any thing to an American Senate, had it not been for the extraordinary position assumed by the Senator from New Jersey, (Mr. DICKINSON.) That gentleman maintains that the United States have no right to the possession of this country, and has quoted the third article of the London convention of 1818, to sustain that idea. On the contrary, I maintain that we have a right to the possession, *first*, as the true owners of the country; *secondly*, as entitled to restitution under the first article of the Ghent treaty; *thirdly*, as having a mutual right of entry with the British for ten years, under the London convention above quoted. The third article of this convention stipulates that *any country* claimed by either party, to the West of the Rocky Mountains, shall be "*free and open to the citizens and subjects*" of the two powers, for the period of ten years from its signature. Yet, by a strange process of reasoning, the Senator from New Jersey construes this *mutual* right of entry, expressly secured to the "*citizens*" and "*subjects*" of the "*two*" powers, as an exclusive privilege granted to *one*, and that one not his own country, but the "*subjects*" of his Britannic Majesty. But I will confront that gentleman with authority upon this subject—the authority of a British minister, which will probably have more weight with him than the argument of an American Senator. Lord Castlereagh himself, at the time of negotiating that treaty, admitted our right to the possession. Mr. Rush, in his letter to Mr. Adams, of Feb. 1818, says: "It is proper, at this stage, to say, that Lord Castlereagh admitted, in the most ample extent, our right to be reinstated, and to be the party in possession while treating of the title."

2. That Great Britain *now* has the possession, is a fact of historical notoriety. The settlement of Astoria, founded by American citizens, and named after an American, has been retained ever since the war, converted into a military post, and its name changed into the royal British appellation of Fort George. There, British cannon are mounted, the British flag flies, and the medals of George the Fourth are distributed to the chiefs and warriors of the surrounding tribes. Five other posts are established at proper distances between the sea and the mountains, so as to form a complete chain, from sea to sea, along the course of the Columbia, to Saskatchewan and the St. Lawrence. A cordon of posts, three thousand miles in length, is stretched along our flank, for a purpose which every citizen, and every Indian of the West, well understands, and to counteract which no effort is made by the American Government. The Columbia river is suffered to be occupied, in its whole extent, by British arms. The mock ceremony of delivering Astoria to Mr. Prevost, in 1818, deceives nobody.

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The facts are, that a British sloop of war touched at Lima, in the Fall of 1818, took up Mr. Prevost, carried him to Astoria, (Fort George), on the 1st day of October, and brought him away on the 6th. While there, Mr. Prevost, under the authority of the American Government, signed a receipt for the delivery of Fort George, and accepted a remonstrance from the British against the delivery, "*until the final decision of the right of sovereignty between the two Governments.*" The possession of the fort was not changed, nor intended to be changed, by any act done by Mr. Prevost. He could not man the fort himself, and had neither soldier nor sailor to do it for him. The ceremony of lowering the British flag, and of hoisting the American, was a piece of form, arranged beforehand, for the purpose of satisfying the words of the Ghent treaty, by a nominal restitution, while the post itself remained with the English, in the same manner as if Mr. Prevost had remained at Lima. No attempt has since been made by the American Government to realize the possession, and Fort George, with the whole country drained by the Columbia, remains to this day in the hands of the British. The mouth of that river has become a frequented post in their hands. All the goods for the region West of the Rocky Mountains, are imported there, free of duty; and all the furs taken in that extensive country, including the Rocky Mountains, are hence exported to the great fur markets of China and Japan.

3. That Great Britain *resists* the possession of the United States, is a fact of which our public documents furnish the proof.

As early as July, 1815, the Government of the United States turned its attention to the re-occupation of the Columbia. Claiming its restitution under the first article of the Ghent treaty, the Secretary of State, Mr. Monroe, conforming to the usages of civilized nations, requested from the British Charge des Affaires, at Washington, Mr. Baker, a letter of instructions for the delivery. Mr. Baker declined to give the letter, upon the ground that he had no orders from his Government to do so. In 1817, the British ambassador, Mr. Bagot, made it a subject of complaint and remonstrance that the Government of the United States should propose to re-occupy that country, and treated the proposition as an invasion of the rights and interest of his Britannic Majesty. He denied our right to be restored under the terms of the Ghent treaty, taking a distinction, where there existed no difference, between the case of a post captured by a superior force, and of a post evacuated by an inferior force, at the approach of a superior one. The latter of these cases he alleged to be that of Astoria.

In 1821, when the occupation of the Columbia was first presented to the consideration of Congress, the British Minister at Washington, Mr. Canning, twice called upon the Secretary of State, Mr. Adams, with a view to arrest the progress of that measure. He went so far as to say, that such occupation would conflict with his Majesty's claims in that quarter. Contemporaneously with this interference and threat, was the appearance of numerous essays in the National Intelligencer, evidently from the pens of persons in the employment of England and Russia, attacking and ridiculing all the claims of the United States to the Northwest coast of America. The essays of anonymous newspaper writers might be deemed unworthy of notice in this chamber, but they derive importance from the fact of the repetition of their contents in the halls of Congress. Yes, Mr. President, these essays have become a magazine, from which gentlemen borrow arms for attacking the rights and interests of their own country; nor is there a weapon of argument or ridicule which has been employed throughout this debate, which cannot be traced to that source.

4. That the party in possession, in the year 1823, will have the right of possession until the question of title shall be decided by arms or negotiation, is a consequence

resulting from the terms of the third article of the London convention of 1818. [Here Mr. B. read the article, and continued.] It is a vulgar error, Mr. President, to suppose that, by this convention, the United States granted to British subjects the rights of trade and passage upon the Columbia river, for the period of ten years. It would be just as correct to say, that Great Britain grants the same privileges to the United States for the same period. The fact is, that neither grants a privilege, and neither accepts one. The title of each is placed upon a footing of perfect equality. Each has the right of trade and entry, by virtue of his own claim to sovereignty; each agrees to tolerate the trade and entry of the other for ten years. Neither surrenders any part of his claim, and the treaty is not to be construed to the disadvantage of the title of either. It results from these stipulations, that the party in possession at the expiration of the ten years, will have the right of possession until the question of title shall be decided. It requires no Vattel to tell us this. The principle is the same in national and municipal law. When the title is disputed, the party in possession of the disputed property, has a right to hold it until the question of title shall be decided—by a court of justice, when the dispute is between individuals; by arms, or negotiations, when it is between nations. In the case before the Senate, the United States have a right of possession as the true owners of the country; another right under the Ghent treaty; and a further right of entry, under the terms of this convention. But the last right is a limited privilege, which has but two and a half years to run. If it is suffered to expire, it will require no spirit of divination to foresee the result. All right of entry or possession will then be denied. Our right as owners will be said to be limited in the convention, which had expired; our right under the Ghent treaty will be said to have been satisfied by the idle ceremony, rather worse than useless, in which Mr. Prevost was an actor; and having the possession of the river, a fleet in its mouth, batteries upon its shores, a line of posts to Canada, and the command of 140,000 Indians, Great Britain may safely take the attitude of defiance, and trust to her arms for the defence of her position. That she will have the disposition to do so, can be doubted by no one who has observed the course of her policy with respect to this river, the increasing boldness of her pretensions, and the "*reluctance*" with which she agreed to such a modification of the third article of the convention of 1818, as would leave that country open, "*for a limited time,*" to the citizens of the United States, as well as to the subjects of Great Britain.—*Letter of Messrs. Gallatin and Rush, Oct. 20, 1818.*

Mr. B. now took up the bill, and complained of the unfair manner in which it had been opposed. He called it unfair, because gentlemen had stated it to be what it was not, and then made war upon the phantoms of their own imaginations. The bill proposed nothing more than the military occupation of the country, in execution of the Ghent treaty. It proposed to put money and troops at the disposition of the President, to enable him to receive the country, and to retain it. The President was bound to execute the treaties of the Union, and he could not go in person, like Mr. John Baptist Prevost, to receive the possession of the Oregon with his own naked hands. Yet gentlemen had represented the bill as a proposition to found a colony, and to establish a territory, and then launched forth into all the commonplace declamation against colonies and territories. Mr. B. would not follow them into that field of idle debate; he would stick to the proposition contained in the bill. He would call for the complete execution of the Ghent treaty. He would demand if that part alone which was made for the benefit of the West, was to remain forever without execution? If a second edition of the retention of the Northwestern posts was to be struck off for the benefit of the Western people? A peculiar fatality seemed to attend upon the execution of the treaties

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made for the benefit of the West. In 1783, Great Britain stipulated, among other things, to surrender the posts of Niagara, Detroit, and Mackinaw; yet she retained them for thirteen years, in violation of that treaty, and for the avowed purpose of monopolizing the fur trade, and retaining the command of the Northwestern Indians. Two Indian wars, and the desolation of the frontiers of Kentucky and Ohio, were the fruits of that perfidious policy. At length we have another treaty, stipulating, among other things, for the surrender of another Western post; and already ten years have elapsed, and the post is not surrendered! The cause of retention is the same—the fur trade and the Indians; the fruits will be the same—fresh wars with the Indians, and the desolation of the frontiers of Michigan, Illinois, Missouri, and Arkansas.

But gentlemen have put some questions, which I feel myself bound to answer. They have asked, What are to be the advantages of this occupation? What the effect upon this Union? What its effect upon the Asiatic Powers?

I answer, the advantages will be—

1. In securing to us the fur trade of the Rocky Mountains, the Upper Missouri, and the Columbia, worth, per-adventure, a million of dollars per annum, for a century to come.

2. In preventing the British and Russians from acquiring the control of the Indians on the waters of the Columbia. These Indians are estimated at 140,000 souls, possess the finest horses, and are among the best horsemen in the world. The present age has seen the Cossacs of the Don and Ukraine, ravaging the banks of the Seine and the Loire; the next may see the Cossacs of the Oregon issuing in clouds from the gorges of the Rocky Mountains, and sweeping, with the besom of desolation, the banks of the Missouri and Mississippi.

3. In giving us a naval station on the coast of the Pacific. The want of such a station was fully exemplified in the cruise of Commodore Porter, during the late war. In that cruise, we had the extraordinary spectacle of a naval commander traversing, for three years, a sea infested with enemies, sometimes burning his prizes on the ocean, sometimes hiding them in distant islands, sometimes seeking the enemy, and sometimes flying from a superior force, and at last sustaining a murderous attack, and losing his ship, in a neutral port. The loss sustained on that occasion, in prizes and a frigate, (to say nothing of lives, above all price,) was fifty or a hundred times the amount of appropriation in this bill. And this loss we must expect to undergo, in all subsequent wars, unless we provide a post of our own in the Pacific Ocean. But it is not ships of war alone, and their prizes, which we are to lose for want of such a post. Our merchant vessels need the same accommodation both in peace and war. The numerous vessels engaged in the whale fishery, in the commerce of the Northwest coast with the Islands of the Pacific Ocean, and even with China and Japan, demand this accommodation; and not a government upon earth, save that of these United States, would hesitate to grant it. To gain a post in the same sea, Russia has endeavored to open a harbor in the frozen region of Kamtschatka, and among the sand banks of Okotsky. To gain this very Columbia, England is resorting to every trick of diplomacy, to the violation of treaties, and to the audacity of menacing war; yet the Congress of the United States hesitates, delays to take possession of its own, and endangers its title by neglecting to enforce it. In their blind and contradictory opposition, some gentlemen represent the mouth of the Columbia as unfit for the purposes of a naval station; but the report of Mr. Prevost, and the anxiety of the British to obtain it, are conclusive refutations of such objections. Mr. Prevost says:—

“The bay is spacious, contains several anchoring places in a sufficient depth of water, and is by no means so difficult of ingress as has been represented. Those

enjoying the exclusive commerce have probably cherished an impression so favorable to its continuance, growing out of the incomplete survey of Lieut. Broughton, made under the orders of Vancouver, in 1792. It is true, that there is a bar extending across the river, at either extremity of which are, at times, appalling breakers; but it is equally true, that it offers, at the lowest tides, a depth of twenty-one feet of water, [the tide rising eight feet twice in twenty-four hours,] throughout a passage, exempt from them, of nearly a league in width. The Blossom, carrying more guns than the Ontario, encountered a change of wind while in the channel, was compelled to let go the anchor, and when again weighed, to tack and beat, in order to reach the harbor, yet found a greater depth, and met with no difficulty either then or on leaving the bay. The survey marked C, may be relied on for its accuracy. The bearings, distances, and soundings, were taken by Captain Hickey, who was kind enough to lend himself to the examination, and to furnish me with this result. It is the more interesting, as it shows that, with the aid of buoys, the access to vessels of almost any tonnage may be rendered secure. In addition to this, it is susceptible of entire defence, because a ship, after passing the bar, in order to avoid the breaking of the sea on one of the banks, is obliged to bear up directly for the knoll forming the cape, at all times to approach within a short distance of its base, and most frequently then to anchor. Thus, a small battery erected on this point, in conjunction with the surges on the opposite side, would so endanger the approach as to deter an enemy, however hardy, from the attempt. This outlet, the only one between the 38th and 53d degrees of north latitude, embraces the entire range of country from the ocean to the mountains, and its interior unites the advantage of a water communication throughout, by means of the many streams tributary to the Columbia, two of which disembody opposite to each other, within twenty-five leagues of the port, are navigable, and nearly of equal magnitude with this beautiful river.”

4. In opening a communication between the Valley of the Mississippi and the Pacific Ocean.

This was the object of Mr. Jefferson in sending out Lewis and Clark to explore the line of the Missouri and Columbia rivers. That great man, always intent upon benefiting the human race, had conceived the grand idea of a commercial intercourse with India upon this line of communication. But Lewis and Clark were explorers, without guides, and often fell on the most difficult and circuitous routes. Subsequent adventurers have been more successful. In passing the Ridge of the Rocky Mountains, Lewis and Clark wandered 12 or 1300 miles, over rocks, precipices, and mountains, in getting from the Falls of Missouri to the Forks of Clark's River; points which are only 150 miles apart, and between which there is a well-beaten Indian and Buffalo road, over good ground, and through a country abounding with grass, game, and horses. In fact, there is no difficulty in any part of the route. The furs taken in the Rocky Mountains will descend the Columbia to the Pacific Ocean, and thence cross the sea to China. The same vessel can bring a return cargo of East India goods, and can ascend the Columbia to the head of tide water, 183 miles. The Great Falls can be passed by a portage of 400 yards on the left bank, and 1200 on the right; but, during the periodical floods, in the months of April, May, and June, they can be passed without any portage at all. Vessels may be lifted over the fall by a vast lock, neither made nor filled by the hands of man. Mr. B. explained this phenomenon—one of the most grand and striking in the works of nature. The Great Falls had a pitch of thirty-eight feet perpendicular. Immediately below, the river spread out into a basin of three miles diameter. The river issued from this basin through a channel narrower than that by which it entered. The consequence was, that, in every annual flood, the basin filled up; the reflux current rolled back upon the Fall,

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buried it, and presented four feet of smooth water, where, in the absence of the flood, there was a pitch of thirty-eight. The passage through the mountains was free from difficulty. For eight months in the year, snow and sleighs could be relied upon. From the foot of the mountains issued the Missouri river, navigable, without the slightest obstruction, to its junction with the Mississippi, two thousand five hundred and seventy-five measured miles. Mr. B. then adverted to two circumstances, which would facilitate the introduction of East India goods upon the line of the Columbia and Missouri rivers: first, the goods to be introduced were of little weight, small bulk, and great value; secondly, the river to be ascended was short, the one to be descended was long: And he expressed the most confident belief, that, within one year after the occupation of the Columbia, the rich productions of the East Indies would flow into the valley of the Mississippi, upon this new and truly national route.

5. But the greatest of all advantages to be derived from the occupation of this country, is in the exclusion of foreign powers from it. It is a country too great and too desirable, to remain longer without civilized inhabitants. In extent, soil, and climate, it is superior to the old thirteen United States. In 1804, it was written by Humboldt, "that the banks of the Columbia invites Europeans to found a fine colony there, for its banks afford fertile land in abundance, covered with superb timber." In 1805 Russia attempted to colonize it; but the ship destined for that purpose, and carrying the Emperor's chamberlain, and ambassador to Japan and China, the Count Resanoff, missed the mouth of the river, went down upon the coast of California, and there commenced a settlement. England now has her iron grasp upon it, and it will require a vigorous effort of policy, and perhaps of arms, to break her hold. Even if foreign powers had no desire to aggrandize themselves with this possession, mere adventurers might enter upon it, as *Aeneas* entered upon the Tyber, and as our forefathers came upon the Potomac, the Delaware, and the Hudson, and renew the phenomenon of mere individuals laying the foundation of a future empire. In the mean time, our President has proclaimed the principle, and the whole nation has responded to it, that no part of this continent is open to European colonization; but what signifies the proclamation of a just and noble principle, unless it is supported by money and arms? When have the rights of nations been respected, merely because they were just? When has an individual, or a sovereign power, gained respect or justice for itself, by a pusillanimous desertion of their own rights?

Mr. B. proceeded to the next inquiry, The effect which the occupation of the Columbia would have upon this Union.

On this point he could speak for himself only, but he would speak without reserve. He believed that the Union of these states would not be jeopardized by the occupation of that river, but that it would be the means of planting the germ of a new and independent power, beyond the Rocky Mountains. There was a beginning, and a natural progress in the order of all things. The military post on the Columbia would be the nucleus of a settlement. Farmers, traders, and artisans, would collect about it. When arrived at some degree of strength and population, the young society would sicken of a military government, and sigh for the establishment of a civil authority. A territorial government obtained, the full enjoyment of state rights would next be demanded; and, these acquired, loud clamors would soon be heard against the hardship of coming so far to the seat of Government. All this would be in the regular order of events, and the consequence should be foreseen and provided for. This Republic should have limits. The present occasion does not require me to say where these limits should be found on the North and South; but they are fixed by the

hand of nature, and posterity will neither lack sense to see, nor resolution to step up to them. Westward, we can speak without reserve, and the ridge of the Rocky Mountains may be named without offence, as presenting a convenient, natural, and everlasting boundary. Along the back of this ridge, the Western limit of this republic should be drawn, and the statue of the fabled god, *Terminus*, should be raised upon its highest peak, never to be thrown down. In planting the seed of a new power on the coast of the Pacific ocean, it should be well understood that, when strong enough to take care of itself, the new Government should separate from the mother Empire, as the child separates from the parent at the age of manhood. The heights of the Rocky Mountains should divide their possessions; and the mother Republic would find herself indemnified for her cares and expense about the infant power, in the use of a post in the Pacific Ocean, the protection of her interests in that sea, the enjoyment of the fur trade, the control of the Indians, the exclusion of a monarchy from her border, the frustration of the hostile schemes of Great Britain, and, above all, in the erection of a new Republic, composed of her children, speaking her language, inheriting her principles, devoted to liberty and equality, and ready to stand by her side against the combined powers of the old world. Gentlemen may think that this is looking rather deep into the chapter of futurity; but the contrary is the fact. The view I take is both near and clear. Within a century from this day, a population, greater than that of the present United States, will exist on the West side of the Rocky Mountains. I do not deal in paradoxes, but in propositions as easily demonstrated as the problems in Euclid. Here, then, is the demonstration: Dividing our portion of this continent into five equal parts, and there will be found, in the valley of the Mississippi, three parts; on the East side of the Alleghany Mountains one part, on the West of the Rocky Mountains, one part. Population will distribute itself accordingly; three parts in the valley, and one part on each of the appurtenant slopes. Within a century, the population of the whole will be one hundred and sixty millions; of which a hundred millions will drink the waters which flow into the Mississippi, and sixty millions will be found upon the lateral streams which flow, East and West, towards the rising and the setting sun. The calculation is reducible to mathematical precision. We double our numbers once in twenty-five years, and must continue to do so until the action of the prolific principle in man shall be checked by the same cause which checks it in every race of animals—the stint of food. This cannot happen with us until every acre of our generous soil shall be put in requisition; until the product of more than a thousand millions of acres shall be insufficient to fill the mouths which feed upon them. This will require more people than a century can produce, even at the rate of doubling once in twenty-five years; a rate which will give us one hundred and sixty millions in the year 1920: that is to say, twenty millions more than the Roman Empire contained in the time of Augustus Cæsar. A century is but a point in the age of a nation. The life of an individual often spans it; and many are the children now born, who will see the year 1920, and the accomplishment of the great events which their nurses believe to be impossible.

Upon the people of Eastern Asia, the establishment of a civilized power upon the opposite coast of America, could not fail to produce great and wonderful benefits. Science, liberal principles in government, and the true religion, might cast their lights across the intervening sea. The valley of the Columbia might become the granary of China and Japan, and an outlet to their imprisoned and exuberant population. The inhabitants of the oldest and the newest, the most despotic and the freest Governments, would become the neighbors, and, peradventure, the friends of each other. They have



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the same enemies, and by consequence, should stand together as friends. Russia and the legitimates menace Turkey, Persia, China, and Japan; they menace them for their riches and dominions; the same powers menace the two Americas for the popular forms of their governments. To my mind the proposition is clear, that Eastern Asia, and the two Americas, as they have become neighbors, should become friends; that they should stand together upon a sense of common danger; and I, for one, said Mr. B. had as lief see American ambassadors going to the Emperors of China and Japan, to the King of Persia, and even to the Grand Turk, as to see them dancing attendance upon those European legitimates, who hold every thing American in contempt and detestation.

Mr. B. concluded with saying, that these were speculations of his own, shooting far ahead of the proposition under debate. The proposition is to execute the Ghent treaty, to expel the British from the Columbia River, to perfect our title, by reducing the disputed territory to possession; and, whatever use we may make of it afterwards, whether we shall hold it as a military post and naval station, settle it as a colony, or found a new Republic upon it, there were certain preliminary points on which Mr. B. believed that both the Senate and the People of the United States would cordially agree, namely, neither to be *tricked* nor *bullied* out of their land, nor to suffer a *monarchical* power to grow up upon it.

[In the course of Mr. BENTON's speech, Mr. DICKERSON denied that he had acknowledged the right of the British Government to any part of the territory of Oregon.]

Mr. LOWRIE moved to lay the bill on the table; which motion was decided by yeas and nays, as follows:

YEAS.—Messrs. Barton, Bell, Branch, Brown, Chandler, Clayton, D'Wolf, Dickerson, Edwards, Elliott, Findlay, Gaillard, Holmes, of Maine, King, of Alab., Lannan, Lowrie, Macon, Parrott, Seymour, Smith, Tazewell, Van Buren, Van Dyke, Williams.—25.

NAYS.—Messrs. Barbour, Benton, Boulogny, Cobb, Hayne, Jackson, Johnson, of Ken. Johnston, of Lou. Lloyd, of Mass. Mills, Noble, Ruggles, Talbot, Thomas.—14.

Mr. MILLS submitted the following resolution:

*Resolved*, That a committee be appointed to make such arrangements as may be necessary for the reception of the President, on the occasion of his inauguration.

The resolution was read, and a committee appointed, consisting of the following gentlemen:

Messrs. MILLS, VAN BUREN, and EATON.

The Senate took up, as in committee of the whole, the bill to provide for the punishment of certain crimes against the United States, and for other purposes.

A considerable time was spent in the discussion of the details of this bill, which was participated in by Messrs. HAYNE, HOLMES, of Maine, COBB, CHANDLER, DICKERSON, VAN BUREN, BROWN, JOHNSON, of Ken. and TALBOT.

On the question, Shall the amendments be engrossed, and the bill read a third time? it was decided in the affirmative, by Yeas and Nays, as follows:

YEAS.—Messrs. Barbour, Barton, Bell, Benton, Branch, Cobb, Clayton, D'Wolf, Eaton, Elliott, Findlay, Gaillard, Hayne, Holmes, of Maine, Jackson, Johnson, of Ky. Johnston, of Lou. Kelly, King, of Alabama, Lannan, Lloyd, of Mass. Lowrie, Mills, Noble, Parrott, Seymour, Smith, Tazewell, Thomas, Van Buren, Williams.—31.

NAYS.—Messrs. Brown, Chandler, Dickerson, Macon, Ruggles, Talbot.—6.

#### HOUSE OF REPRESENTATIVES.—SAME DAY.

Mr. TRIMBLE laid on the table the following resolution:

*Resolved*, That the Secretary of the Treasury be in-

structed to report to this House, at the next session of Congress, whether any, and, if any, what, effect would be produced upon the revenue and commerce of the United States, by extending the time within which merchandise may be exported with the benefit of debenture, from one to two years; and what amount of duties ought to be retained to repay the disbursements of the Treasury upon that branch of trade. And also whether any additional Government storehouses will be necessary, if the system of deposit, now applicable to wines, teas, and distilled spirits, should be extended to merchandise of every description."

Mr. McDUFFIE laid on the table the following:

*Resolved*, That the Constitution of the United States ought to be so amended that the mode of voting for President and Vice President shall be uniform, and that the people shall vote directly for the aforesaid officers by districts.

*Resolved*, That the Constitution ought to be further amended so as to prevent the election of the aforesaid officers from devolving upon either branch of Congress, by providing that, in case no person shall obtain the votes of a majority of the said districts, the people shall proceed to choose the officers aforesaid, from the two persons having the highest number of votes for the said offices, respectively.

*Resolved*, That a select committee be appointed, with instructions to prepare a joint resolution for amending the constitution, in conformity with the foregoing resolutions."

On motion of Mr. FORSYTH, the House went into committee of the whole on the state of the Union, Mr. COCKE in the chair, on the bill from the Senate for the suppression of piracy. The bill was read by sections, and gave rise to the following debate:

Mr. FORSYTH, Chairman of the Committee of Foreign Relations, (to which committee the subject was referred in this House) rose, for the purpose of briefly stating what would be the effect of the bill. For this purpose he gave a short summary of the amount of each section. The first section, he said, went to increase the present number of our sloops of war—a class of vessels now considered by the Executive as peculiarly fit for this service. It was true that, in 1822, a different opinion prevailed, and measures were taken corresponding to that opinion.

The second section authorized the President to direct the officers, commanding this squadron, to land their forces when in fresh pursuit of pirates, to withdraw from the jurisdiction of Cuba and Porto Rico the persons apprehended, and to bring them to the United States for trial.

There did not exist any necessity for granting this provision of the bill, since the President has it already by the law of nations. And Mr. F. thought this part of the bill objectionable on another account. It referred only to Porto Rico and Cuba—but, if the right exists, it exists in relation to all other places, as well as to these Islands. And if it does not exist, and is to be given by this bill, it ought to be given in relation to all places. If the section was proper at all, it ought to be made universal in its form.

The third section restricted the carrying of specie by armed vessels of the United States, unless when expressly permitted by the President of the United States, or the Navy Department. According to representations of our agent in Cuba, serious injury had resulted to the commerce of the United States, from this practice. The force which was intended to be employed in guarding that commerce against pirates, had been diverted to a different purpose. The section was intended to remedy this state of things.

The fourth section secured on all recaptures by merchant vessels, a certain salvage. The reasons for such a provision were obvious. But they did not apply more

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to Cuba or Porto Rico, than to all other parts of the world. Piracies exist in the Indian ocean; merchant vessels are armed by law, and are entitled to the same salvage there as in the West Indies. This section, if adopted, therefore, ought also to be universal.

The fifth section provided for the capture of piratical boats, &c., by vessels of the United States, and the distribution of the proceeds. The sixth section requires that no armed merchant vessel shall receive a clearance until bond has been given in double the value of the vessel, for the correct conduct of the officers and crew on board, and to secure their obedience to such instructions as shall be given by the President of the United States. The act of 1818 requires that all merchant vessels, arming in self-defence, shall give bonds for their correct conduct. The only difference between that act and the present, in this respect, is, that the amount of the bond is varied; by the act of 1818, the penalty is double the amount of vessel and cargo, and no obligation to obey the President's instructions is required.

The seventh section authorized the President to give suitable instructions to armed merchant vessels.

The eighth section allowed five per cent. of all prizes taken, for a pension fund.

The ninth and tenth sections designated the persons to whom the pensions are to be paid. The ninth provides for officers, and the tenth for widows and children.

The eleventh and last section limited the operation of the law to one year.

Having thus gone through a general sketch of the provisions of the bill, Mr. F. adverted to the report of the Committee of Foreign Relations, on this subject.

That Committee conceived that no legislative provisions were required by the posture of our affairs with Spain. For the reasons given in their report, our just claims upon Spain for spoiliations committed by Spanish officers, acting in obedience to Spanish decrees, and under Spanish commissions, should not be at present vindicated by the exertion of our power. The promised Minister, who comes with full authority to stipulate their payment, should be heard. Mr. FOSTER could not, without doing injustice to his own opinions, avoid stating that he felt no confident expectation that justice would be done to the United States on the arrival of the recently appointed minister. He apprehended that the object of this mission was "to gain time;" the aim and the end too of all Spanish negotiation, and in which their diplomatists were eminently successful. As yet, however, the Government of Spain had not derived any signal advantage from the success of their labors. We shall, no doubt, be compelled, eventually, to do justice to ourselves, but, for our own character, he desired that measures of compulsion should be delayed to the last hour. Without recalling to the recollection of the committee the suggestions contained in the report, Mr. F. would make a single remark, which would place the members in possession of the views of the committee.

The situation of Spain was deplorable, and ours, in relation to Spain, peculiar. Spain had vast and rich possessions in our neighborhood. The Government was imbecile. Her colonies will be the property of any power that chooses to take them. It is the common sentiment of European politicians, that Spain must fall to pieces, and that the United States are happily situated to take advantage of that event. Mr. F. was deeply anxious to satisfy all mankind that the Government of this country looked forward to no such advantages, and that, if ever any portion of the dominions of Spain come under our power, our conduct should bear the scrutiny even of those most anxious to fix upon us the charges of ambition and avarice.

As it regarded the piratical depredations upon our commerce, and that of the rest of the world, Mr. F. said, no extraordinary measures were deemed necessary or proper. The Executive has all the power necessary for

the suppression of piracy. If means are wanting, they should be given: If men are wanted, authorize their enlistment: If money, appropriate it: If a naval force of an unusual description, authorize its creation. Give all that is needed, and hold the Executive responsible for a just and effectual application of the means afforded. But no measures of an extraordinary character would be either for the interest or honor of the United States. By extraordinary measures, Mr. F. meant such measures as operated upon the Government of Spain, and would only be justified on the principle, that the Spanish Government was responsible for the acts of the pirates. The correspondence with the Spanish Government, laid before the House by the President, shows that our Executive does not hold Spain responsible for the piracies committed by persons who either sail from, or take refuge in the dominions of that power; nor has any step been taken to create that responsibility. The only application officially made is, for co-operation in putting down the pirates, and for permission to our forces to enter Spanish territory for that object. In December, 1822, prior to any official application from the United States, the Constitutional Government officially announced to the United States, that the naval force of Spain should be increased on the stations of Cuba, Porto Rico, Porto Cabello, and St. Juan de Ulloa, for the express purpose of suppressing piracy; and that orders were given to the Commanding General at Havana, to exterminate the pirates. In March, 1822, Gov. Mahy had issued at Havana a decree prescribing severe regulations of police to prevent piracy, and to facilitate the detection of the crime, should it be committed by persons belonging to the Island of Cuba. In May, 1823, Gen. Vives issued a circular to the local authorities to aid Commodore Porter, then arrived on the coast, to suppress piracy. The correspondence of Commodore Porter proves that this aid was given; and so important did he deem this co-operation that, in order to prevent any interruption of it, he sent off from Thompson's Island, a privateer of Colombia, lest he should be supposed desirous to give shelter and aid to a vessel which was interrupting the commerce of the Island of Cuba. Within the last five days a correspondence has been published, in which Commodore Porter expresses to Gen. Vives, his hearty thanks for the co-operation of that officer and those under his command. With this show of anxiety to do what is right by Spain, and her Chief Officer, added to the punishment of pirates in Porto Rico, which are known to have been inflicted, it would be scarcely justifiable to adopt any measures against Spain, especially as we have never given notice to Spain of such an intention. The United States have not yet said to Spain, Suppress these abominations, or we will hold you, in the sight of God and man, responsible for them: Exercise your power, or we will exercise our power. Until this was done, we should not think of acting upon Cuba. It was but too true, that an infamous depravity of moral feeling prevailed in Cuba on the subject of piracy, and the corruption of Spanish tribunals was sufficiently notorious. Can we act upon the dominions of a foreign power because the people are vicious, or the tribunals impure? The laws of nations do not permit us to enter into crusades for the correction of the vices of our neighbors, nor to enter into their territory to inquire into the purity of their tribunals. However well convinced we may be of their corruption, we cannot say that we, the people of the United States, are more unjustly treated than other foreigners, or than Spanish subjects. The charge of corruption has been of long standing against Spanish tribunals, with probably but too much reason. The mode of administering the laws leads naturally to corruption and injustice. Judges, often a single judge, decides upon matters of law and fact—the witnesses are examined ex parte; and whenever a suit begins, the first effort of the parties litigant is to influence the judge in

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their favor, by favor, flattery, or something worse. The judges, however, are, in one thing, quite impartial, they are as ready to be *influenced* on the right side as the wrong one; and when justice can, and will wield a purse as long as injustice, the tribunals of Spain can be trusted as safely as other tribunals. The rule of international law is well understood even in matters of property; every definitive sentence, regularly pronounced, is to be esteemed just, and executed as such. The rule admits of exceptions: they are, when justice is refused to a foreigner—palpable or evident injustice done, or rules and forms openly violated—or, finally, an odious distinction made to the prejudice of foreigners. In these cases, the government whose tribunals are unjust, is responsible. Justice is, however, to be sought in the usual form, by regular demand upon the government itself. You cannot, either by a well-founded charge of criminality in the population of Cuba, or of the corruption of the Spanish tribunals, act against the Spanish dominions without a previous demand of justice at the hands of their government.

Mr. FOSBERT said he should have come to this conclusion with the greatest pain, if the documents did not prove that ordinary measures were sufficient to prevent piracy, when properly and exclusively devoted to that purpose. Whenever our naval power was where it ought to be, piracy was suppressed. The moment that power was withdrawn, it revived, and with additional horrors. He hoped that the naval force provided, or to be provided, would be faithfully devoted to prevent piracies; and if there was too much reason, from past experience, to dread their recurrence, that explicit warning would be given to Spain, that we should, hereafter, act upon Cuba or Porto Rico, if it should be necessary for our security or repose. Mr. F. was solicitous that no step should be taken by the United States which they should consider not justifiable, if taken, by any other commercial nation. If authority to invade Cuba is given, where will you stop? Resistance to a temporary descent will be followed by conquest and continued occupation. If the whole is occupied, how will it be reclaimed? The consequences are apparent. The principle which justifies us, will justify any other commercial power. England, France, Russia, may take and keep possession of Cuba for the common good of the commercial world. Suppose England (I take this Government as an example, because, *quo ad hoc*, she is the strongest, probably not more ambitious than either of her allies,) should think proper to seize Cuba, could we permit that power to hold it undisturbed? With Halifax on the North, and Havana at the South, she would hold the ends of the bow string by which your coasting trade would be throttled at her pleasure. The commerce of the West Indies, and of the Gulf of Mexico, might be doled out to suit her convenience. I, for one, never will calmly look upon such a state of things. Let me not be misunderstood. I love neither the Government nor the people of Spain. The Government is detestable, and the people are scarcely worthy of a better, or they would long since have obtained it. But the Spanish Government and Spanish subjects, if not good, are not dangerous neighbors, and I prefer them infinitely to those who are.

Mr. FULLER said, that an examination of the provisions of the bill would show that it involved no question in regard to our negotiations with Spain; and that, consequently, the observations of the gentleman from Georgia, (Mr. FOSBERT,) as to the present state of those negotiations, appeared to him unnecessary, and required no reply. The committee, of which that gentleman was chairman, had indeed reported at large their views; and whether they were correct or not, it was useless, in discussing the merits of the present bill, to determine.—No attack upon Spain or her territories is contemplated, nor can any collision with her rights be apprehended by its adoption. It was, therefore, Mr. F. said, superfluous

to settle any nice points of diplomacy, by considering whether we had borne the outrages of the pirates, and demanded redress from Spain for the shelter and countenance which they had received in her Islands, long enough to justify against her an appeal to force or not.

Another part of the remarks of the gentleman from Georgia, Mr. F. said, he thought called for more particular notice. He had charged the government with imbecility or fickleness, because they had required schooners, and other small vessels, for the suppression of piracy two years since, while now they had discovered that such small craft were incompetent and unsuitable, and vessels of a larger size were recommended. But this change of system, said Mr. F. arises entirely from the change, which has taken place in the nature and character of the warfare, which is now to be waged. At the time the former force was provided, these lawless marauders were in possession of many small vessels, in which they adventured into the open sea, and into the various channels and roads of our West India commerce. It was reasonable, therefore, to expect to meet them with our schooners, which were also well adapted to deceive and decoy them; and which, upon their flight, could pursue them into the shoal waters of the Islands, and prevent their escape. These purposes had been accomplished in many instances; and, during the past year, the pirates have been driven from the Ocean, and have seldom ventured more than a league or two from land. When our unarmed merchant vessels are becalmed, or pursuing their wonted course under the North side of the Island of Cuba, these freebooters put out from shore in open boats, and seize their helpless victims. To scour the coast, to discover their lurking places, and arrest the plunderers in their dens, can only be done by launches and open boats, such as can be carried in the larger vessels which the bill proposes. At the proper time, said Mr. F. I intend to offer an amendment, authorizing the President to dispose of the small vessels, which are no longer wanted, and which are peculiarly inconvenient to the officers and seamen, and unfavorable alike to discipline and to health. Vessels of war, of the size now proposed, are well adapted to cruising, are constructed on larger models than formerly, and are of the proper force to be commanded by Masters Commandant. While the expense of building them is little more than a third of that required for a frigate of the largest class; and the expense of keeping them in commission for a given period, is nearly in the same proportion; they are fully as competent for various sorts of service, especially in peace, as frigates or ships of the line.

The achievements of our Navy in the last war had vanquished the doubts and prejudices which before that time had impeded its advancement, and the statesmen of that period had wisely taken advantage of the popularity it had acquired. In 1816, the act for the "gradual increase" of the Navy was passed, by which twelve ships of not less than seventy-four guns each, and as many frigates, including those of both descriptions already authorized, were to be built in the course of eight years, by an annual appropriation, amounting to eight millions of dollars. An attempt was then made, as I have been informed, to provide, from the same appropriation, a proportionate number of sloops and smaller vessels, by which the number of large ships would be diminished. But the attempt was successfully resisted, on the ground, that ships of the line and frigates required a much longer time in preparing timber and materials, and, especially, in the faithful construction of them; while sloops could be provided on short notice, and at an expense comparatively small. This was sound reasoning, and it prevailed. At that time, or within a short period preceding, we had seven sloops of war, three of which have since been lost or destroyed; and yet not a single sloop has been built for the last ten years. The Government has been obliged to incur great expense by employing larger

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vessels on services to which sloops would have been equally competent. So disproportionate is the expense of building, equipping, and keeping in commission, ships of the line and frigates, that I hazard nothing in asserting that the expense of building the number of sloops provided by this bill might have been saved to the nation, during the last ten years, by a seasonable attention to this important circumstance. It has unfortunately happened, however, that while the ships of the line and frigates are nearly all constructed, or in a state of rapid progression, sloops of war have been neglected; and even a bill, which passed the Senate at the last session, for building the exact number provided in the present bill, was never acted upon or taken up in this House.—The protection of our commerce in the Indian Ocean—the suppression of the slave trade—and the conveyance of our Ministers to foreign courts, have generally employed our largest frigates or ships of the line, though sloops would, in most instances, have been equally suitable and efficient, at an expense comparatively trifling.

By existing laws, our merchant vessels are permitted, when bound on foreign voyages, to take on board a suitable armament; yet this bill, though professing to encourage the merchants to arm against pirates, requires of them the burdensome and vexatious condition of a heavy bond to *restrain* them from aggression upon the subjects of foreign nations. Instead of throwing embarrassments in their way, I am persuaded that it is the policy of our Government to afford them such aid, of a pecuniary character, or otherwise, as will indemnify them against the additional expense which such an armament will occasion. Without such encouragement, probably not a single vessel will be armed. The commerce of the West Indies affords very slender profits to the merchant and ship owner, and, with this expense superadded, would generally be attended with loss, and would soon be abandoned. I intend, therefore, to propose a section which shall afford such encouragement as will defray the expense of this armament, being strongly impressed with the conviction, that resistance by the crews of the assaulted vessels is more likely to effect the purposes of the bill, than the employment of any other species of force whatever. Pirates are mere robbers and murderers; they have neither inclination nor courage to encounter danger; it is only the unarmed or unresisting whom they attack. From our public vessels they keep far aloof; and, without doubt, a resolute and well armed crew of half a dozen seamen, under an intrepid commander, would repel a boat's crew of thirty or forty of those murderous wretches. A few instances of successful resistance would strike an effectual blow, while those marauding expeditions, which are now attended with very little danger, would be fraught with destruction to the assailants in almost every instance. Even though not one vessel in ten should actually be armed, the pirates, from being often repelled, would become shy and distrustful, and would be easily intimidated by the appearance of resistance.

Several sections of the bill are devoted to the regulation of captures by the armed merchant ships, the distribution of prize money, and the allowance of pensions to the wounded, and even to the widows and orphans of such as may be killed in battle. Nothing can be more idle and useless than all these provisions, which, as the bill has come to this House, affords not the least encouragement; but, on the contrary, creates new obstacles to the arming of the merchants. Even should they, by any different provisions of law, be induced to be armed, their operations would generally be limited to mere defence; the interest of the merchant, and the safety of the crew, would seldom authorize pursuit or capture; and should captures ever occur, the boats and small craft of the marauders, so far from being laden with jewels, bullion, or property of any sort, would be utterly worthless. Yet the bill labors on through several sec-

tions in bestowing innumerable pensions, to be paid from the proceeds of prizes to be captured from pirates by armed merchant vessels. To avoid the imputation of a glaring deficiency in practical knowledge, to which I hope we are not justly liable, I trust the sections of the bill in relation to this subject will be stricken out.

The gentleman from Georgia expresses fears, that the authority given to pursue pirates upon the shores of Cuba or Porto Rico, may compromise our friendly relations with Spain, and lead to suspicions of intended conquest. Such a fear seems entirely groundless; the authority given in the bill is in strict accordance with the laws of nations, and even stops much short of what might be justified. [Mr. FOSTER here explained.] He did not impute any intention of conquest to the government; but merely alluded to the probable consequences of authorizing pursuit on the territories of Spain.]

Mr. FULLER then read the provisions in the bill. Is any thing clearer than the right of a belligerent, when a vanquished enemy retreats and is sheltered in a neutral territory, to pursue and capture him? In the present case, the authority is to capture pirates, enemies alike to the pursuers and the people among whom they retreat—to deliver them, when captured, under circumstances which may render it proper, to the tribunals of the country; or, when remote from the actual jurisdiction of the country, to send them for trial to the United States. A guarded respect for the jurisdiction of Spain in her Islands, cannot fail to be noticed in this cautious regulation, which delivers over, in many instances, these lawless freebooters, who may have fled from the ocean, the highway of nations, before their pursuers, and, when overtaken within the actual exercise of a Spanish jurisdiction, to the judgment of her laws. Mr. F. concluded by saying that the short-period which remained of the session, induced him to limit his remarks to the most prominent objects of the bill as passed by the Senate; instead of which, at an earlier period, he would have preferred the bill which was reported by the Committee on Naval Affairs for the House, which contained some provisions of a more efficient character than the present act, which, however, he earnestly hoped, in its essential parts, would be adopted.

Mr. BARTLETT, of New Hampshire, said, he hoped for the indulgence of the committee a few moments. It was a request that, even at this hour, could not be granted with more reluctance than it was made. If an apology were necessary, it is in the nature of the subject before us—in a feeling, almost personal, which he could not easily control, excited as it was by the peculiarly aggravated sufferings of his immediate constituents. The object of our present legislation is the suppression of piracy. A purpose, for which, said Mr. B. I know the opinion of many is, that the times demand of us action, rather than deliberation. But, sir, to act may be worse than in vain, unless we act efficiently. We betray our merchants and seamen into peril, by reliance upon pretended protection, and give confidence to the enemy, by our imbecile efforts. Could I believe the measure proposed calculated to effect the object desired, I would not, for an instant, stand between the proposition and the final decision upon it by this House.

Is piracy of a character, and has it existence to an extent, to demand of us effectual measures for its suppression? A question the whole country has answered; and yet, sir, our apparent indifference, on this subject, and the negative character of the measures proposed, seem to reverse that decision. A general assent is, perhaps, yielded to the prevalence of piracy, without that deep feeling of the character and extent of the enormity, necessary to prompt us to efficient legislation. The scenes of blood which, for years, have been exhibited, not in Europe, not in South America only, but within our own borders, have rendered us too insensible to their repetition; and the cries of our suffering citizens, which

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are borne to us on every southern breeze, are still mingled with the din of foreign war. The high excitement of feeling, produced by the accounts of the first piratical depredations, seems lost in apathy at recent recitals of their aggravated horrors. But, sir, situated in the midst of a suffering community, the subject addresses itself to me in a manner that cannot but be felt. From the lips of one of the sufferers, whose life, policy, and not mercy, spared, have I heard the story of piratical torture. He was a gentleman of highly respectable character, and unquestioned veracity. Near the harbor of Havana, he was boarded by pirates—instantly felled to the deck with repeated blows—thrown headlong into the hold of the vessel—there assailed with daggers, and passes made at his throat and through his flesh—hanged by the neck to the yard-arm;—after being cut down and lying till symptoms of returning life appeared, he was then literally whipped through our whole squadron—at each blow of the rope, being told the name of the vessel for which it was inflicted. The horrid cruelties connected with the murder of Captain Blount, can hardly be realized, but by those who knew him as one of the most valuable citizens of Portsmouth—by those who witnessed the grief of his numerous relatives—the inconsolable sorrow of an afflicted wife and family. To that ill-fated neighborhood is carried the recent account of the capture of the brig commanded by Captain Hilton—with the murder of the crew—the bearer of the sad intelligence being compelled to say, “I alone have escaped to tell thee.” And, within the last two days, a report has reached me, which I pray Heaven may prove untrue, of the destruction of another ship from Portsmouth, by the same hands, and the death of every individual on board. But it was not my purpose to have referred to particular instances of a crime, records of the repetition of which fill every gazette, till our surprise is, not that our vessels are captured, our citizens murdered, but that one escapes. In the letter of our Agent, of the 6th of September, after a long catalogue of other captures, he says, “In the Bay were found the wrecks of twelve vessels, recently destroyed by the pirates, the crews of all which are supposed to have been murdered.” Such are the monuments the Island every where exhibits of their plunder, while the coast is whitened with the bones of their victims. Well might the honest seaman, who recently witnessed and gave account of these scenes, conclude, as he did, with the exclamation, “How long! how long will our country suffer these horrid deeds!” Are the measures proposed by this bill such as *must*—such as *probably may*, accomplish the object desired? What is proposed? The Chairman of the Committee on Foreign Relations has stated to you, very distinctly, the purport of each of the eleven sections, which, in short, is—a provision for building sloops of war; authorizing fresh pursuit of pirates; prohibiting freighting specie, but by order of the President; regulating armed merchantmen; providing for distribution of prize money, by capture of pirates, and creation of a pension fund from the same.

Will either—will all these provisions remedy the evil complained of? I answer no. An opinion, I am aware, entitled to no authority further than it may be supported by the considerations upon which it is founded—and in stating the reason of such opinion, it cannot be necessary for me to add professions of the high regard which I entertain for the distinguished gentlemen, personally and officially, from whose views on this subject, it is my misfortune to differ.

In our efforts to vanquish, or exterminate the common enemy, we may make war with him upon the ocean, or upon the land, or both. The former mode seems to be relied upon in this bill; and that, by the employment of our national vessels, such attempt will not, cannot, succeed. If a temporary suspension of the enemy's operations could be produced, still the measure is unjustifi-

able; which, with such profusion of life and treasure, does not reach the source of the evil. It must be ineffectual, from the character of the enemy. Who are these pirates, that we go out with all the “pomp and circumstance of war” to meet them? What injuries do we expect to inflict by our national ships? What trophies are we to gain? They have indeed some small boats, with which they lurk about the bays and harbors; but is it believed they will give battle to your frigates or sloops of war, or attempt to make prize of your captains and commodores? Unless they do, what right have you to molest them? What evidence, unless you take them in the act of piracy, of their guilt? It is not to be understood, that they carry a label upon their forehead, to designate their character; and should the Gulf of Mexico be covered with these “gentleman rovers,” as they may choose to be called, we have not the proof, and therefore not the power, to touch them, unless discovered “*flagrante delicto*!” But it may be said, we can, by such means, detect and capture them assailing our merchant vessels; we may, if they first give notice to us of the time and place the robbery is to be committed; but they have the means and the vigilance to discover our national ships at quite as great a distance as their own small boats may be seen from such vessels; and experience proves, that at the moment of the most flagrant outrages, our squadron has sailed round the whole Island, and every hour discovered traces of their recent depredations, and yet not touched, or come near to the offenders. Captain Porter, in his letter of April 8th, 1824, after describing a voyage through all the Islands, and a minute inspection of the most noted haunts of these robbers, says, “In the course of this long route, although we have visited places formerly the rendezvous of pirates, and saw evidences of their having been recently there, we have not been so fortunate as to capture any, nor have we seen any vessel of a suspicious character, until two days since, when we pursued a small schooner, which took shelter among the Colorado reefs,” &c. Such a result was to have been anticipated from the character of the enemy, as given by the Secretary of the Navy, in his letter of the 1st December, in which he says, “there are few, if any, piratical vessels of a large size in the neighborhood of Cuba, and none are now seen at a distance from the land; but the pirates conceal themselves, with their boats, in small creeks, bays, and inlets, and finding vessels becalmed, or in a defenceless situation, assail and safely retreat into the country, where our forces cannot follow, and by the plunder which they have obtained, and which they sell at prices low and tempting to the population, and by the apprehensions which they are able to create in those who would otherwise give information, they remain secure, and mingle, at pleasure, in the business of the towns, and transactions of society, and acquire all the information necessary to accomplish their purposes.” That “no naval force can afford complete protection against such a system,” is proved by experiment—while, year before the last, of all our vessels of every description in commission, twenty-one of the thirty-one were on that station; and last year, fourteen of twenty-three were in the same service. It is not forgotten, that the President, in his message, at the commencement of the last session of Congress, told us these measures had been successful, and that piracy was no more. That was rather the expression of his and our wishes, than of the fact: we then had hardly “scotched the snake, not killed it.” A momentary suspension of their depredations might have happened till they could better suit their system to our measures. The result has been only to make them more wary, more vindictive, and more numerous. They now more usually take life to prevent detection; and where that is not done, our increased force only adds new tortures to the captive, by an additional rope for every ad-



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ditional vessel. With accounts of such facts, is every gazette filled; but where is the record of our success? Reasons for this want of success, I know, are urged, in the shape of charges against the officers employed upon this service; that they neglect the duty upon which they were ordered to engage, in the business of freighting on their own account. No, no: It is an accusation I will not for a moment believe, but upon the most irrefragable proof. Can it be possible, that those gallant men, as distinguished for humanity as bravery, would turn from the cries of their countrymen, bleeding in the hands of robbers, to engage in a pitiful money speculation? That they, whose names are identified with the glory of their country, would sell the mighty meed of their large honors for the contemptible commissions of a cargo! would strip from their brows the wreath which the nation has placed there, to creep into the garb of a miserable Jew broker! Never! never! Nor could the truth of such charge be admitted, without extending its reproach to the Head of the Department, and the President of the United States, who have power to enforce their own orders. The evidence of your official documents is against it. Captain Porter, in his letter of August 10, says, "the whole history of my operations against the pirates, renders any defence of my conduct, or the conduct of those under my command, against any imputations of neglect, from any quarter, unnecessary, as it is well known to the Department, that we have been devoted to the inglorious service, sacrificing health, comfort, and personal interests, for the sole object of suppressing a system of long continuance, the existence of which was disgraceful to the civilized nations, whose citizens were victims to it." "It is," says our intelligent agent, in his letter of October 1st, "in vain for commercial nations to rely upon mere preventive measures at sea." This experiment, then, of this description of force, has been tried, and fairly tried: and has failed.

If, however, the employment of such force in this manner, had continued a check upon the practice it temporarily produced, so long as it touches not the source of the evil, the sacrifice is greatly disproportioned to the result—and it is inexpedient and impolitic. Are we never again to travel the common highway of nations, but with such formidable array, and its actual presence, to guard our lives? In his letter of July 14, our agent says, "Notwithstanding the large armament maintained by the United States on this coast, attended with a profuse waste of treasure, and with the sacrifice of the health and lives of so many of their gallant crews, the only result has been, the temporary and partial interruption of the practice, while the source and cause of the mischief have not been reached." If the attempt had not served rather to destroy than save the lives of those intended to be protected, the expense would be of less importance. But the entire want of success has rendered the service, as it is justly called, "inglorious"—a despondency, a depression of spirits, is produced among the officers and crews, which would make them victims of disease in any climate—but when to such causes is added the unhealthiness of that station, we have daily melancholy proof of the sacrifice we make. I have before me an official list of more than eighty officers, who have perished in this service in two years past. I forbear to repeat from that list, names familiar to this House—names dear, not to their friends only, but to their country.

But another provision of the bill relates to the *permission* for merchant vessels to arm. The arming of merchant vessels is undoubtedly the only effectual mode of making war with pirates on the ocean. Capt. Porter, in his letter of 10th August, so expressly tells us—and from the very character of the enemy, and the mode of their warfare, we could hardly have needed such authority. Yet there is nothing in this bill but incumbrances upon a *permission* that before existed. And of what

avail is such permission? The persons engaged in the West India trade are not wealthy: all such find their way, with better hopes, to the other Indies. They are merchants of small capital, who, with the most persevering industry and rigid economy, can but just keep that commerce afloat. A single gun, and the expense of men, would sink it forever. You may say to them, "Be ye clothed; be ye warmed"—*be ye armed*—but they need not be tantalized to a sense of their sufferings. Let Government supply the means, or aid them in doing it. This proposition is already met with the opinion of the Secretary of the Navy against it. In his letter of December 21, he says, "It has been sometimes proposed that the expense should be met by the Government, and protection afforded, by placing on board each vessel a number of marines or soldiers; but this will at once be perceived to be impracticable, when the number of our merchant vessels is considered, with the different routes which they pursue, and the times at which they sail. The remedy must be extremely partial, or the expense enormous. The whole marine corps would probably not equal one-fifth of what would be required for a sufficient and equal distribution among all." This objection is, that we cannot arm all our merchantmen. That many difficulties exist in relation to a project of arming them, is not to be doubted, and I am rejoiced to find that this is placed foremost of them all; for, to me, it is far from being satisfactory for not adopting that system. As well might we refrain from building a ship of war, because we cannot bridge the Atlantic with them. If we cannot arm all our merchantmen, while a single gun, with half a dozen men would, in this method, accomplish more than twenty guns and three hundred men, in the manner now employed, why not avail ourselves of this mode of multiplying our means of defence and of annoyance? Less than one half the \$850,000, necessary merely to build the sloops of war proposed, thus expended, will, in six months, give a better account of the West India pirates than millions expended upon the plan we are pursuing.

Do this to meet them on the ocean—but do more—attack them, not in their caves and dens, but in their storehouses, in their dwellings, in the public offices, in their palaces. Make reprisals upon their property. Says Mr. Randall, in his letter of 14th July, "the remedy, to be effectual, must be applied directly to the origin and seat of the evil. Public opinion in this island must be changed; and, as this cannot be effected by reason or the voice of justice, it must be corrected by force; the authorities must be stimulated by counter-motives of interest or fear to the exercise of greater vigilance, or to measures of more rigor and severity against delinquents. These salutary changes, in my opinion, can only be produced by a rigid system of reprisals and hostilities on the part of the United States, against Spanish property, and particularly that belonging to this island."

True it is, this bill authorizes the *fresh* pursuit and capture of pirates upon the land; but what are we to expect from the *fresh* pursuit of pirates by a force that, in two years' search, has scarcely come in sight of one; and what need have we of an enactment to do that which we are authorized to do without it? While nothing is added, by implication it takes away the right we always possess to attack them at all times and in all places. But this, it is said, would be war; war with whom? I must dissent from a conclusion stated in the report of the Committee of Foreign Relations, high as is that authority, on this subject. In that report, it is alleged that Congress cannot authorize the pursuit and capture of pirates, in the towns upon the island of Cuba, "without wresting from Spain her municipal jurisdiction." If Spain has not the power herself to arrest and punish them, then we wrest from her no jurisdiction. If pirates are protected and aided in such towns, and Spain does not choose to exercise such power, then the inhabitants

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of those places are partakers in the crime, and Ferdinand himself is the King of pirates. Sir, I am for peace—that peace which secures us protection in our lives and property—not a nominal peace, the fruits of which are only rapine and murder. By the chairman of that committee, we are just told, that Spain is not notified that we hold her answerable for such outrages. However informal may have been the notice, the repeated, the loud complaints of our sufferings must, long since, have reached even the heavy ears of that government. Two years display of our forces upon her shores, and the demands for her interference, must have made her understand our complaints of wrong, and claims for redress. One year since, from the same source, further deliberation was advised; it is still urged. It is presuming too much, to believe that such a suggestion can be heard with calmness by those of our countrymen who are suffering the cruelties of these barbarians. But we must wait, it is said, for further negotiation. When we were colonies of Great Britain, and Jenkins, whose case has recently been referred to, suffered some indignity from a Spanish cruiser, he was brought to state, in person, his wrongs before the Legislature of the nation; and the exclamation then was, not to *negotiate*, but to require concession and indemnity, as a *sine qua non* to the commencement of negotiation. I am willing to make all reasonable sacrifices to the etiquette of diplomacy—outfits, salaries, and time of Ministers; but not to add the offering of hecatombs of our fellow citizens. When is negotiation terminated? A twenty years' experiment, not long since, resulted in a treaty rejected by that government; and the distinguished chairman of the Committee of Foreign Relations has just expressed an opinion, that we have nothing better to hope at present. Well may the usual benediction of their diplomatic notes be changed from—"May you live a thousand years," to—"May you wait a thousand years. What could be gained from the most successful negotiation? Can it restore those to life whom every day's delay is adding to the long catalogue of the murdered? If that government promises to suppress the evil, it creates no new obligation—it gives no new power. If she has the power, and does not exercise it, we need no further negotiation. If she has not the power, we have, and the right too, and wherefore not exercise it? Exercise it upon the partakers of the plunder, the protectors of the culprits, upon the inhabitants of Cuba. The documents before us prove distinctly that the whole island is contaminated. In the letter before referred to, it is said, "those practices, so far from finding a check or corrective in the moral feeling of this community, are rather countenanced and aided by it." "The facts of the case prove, that a large part of the people of this island are engaged in hostilities of the most cruel and oppressive character against the property and lives of citizens of the United States, without the inclination or ability, on the part of the Supreme Government of Spain, or the local authorities, to put a stop to it."

The recent letter of Captain Porter has been cited, to disprove this statement of our Agent at Cuba.—That letter, under the circumstances in which it appears, will be far from so doing. Captain Porter had recently taken liberties with that government for which his own had recalled him. Fresh from the affair at Foxardo, it might be thought worth a passing compliment to appease him, through whom complaints, if any, might be expected to be heard, and it can hardly deserve to be considered other than a *sop* to him, whatever may be his private virtues, whose official duties have served no other purpose than, Cerberus like, to aid the *fiends* within, to prevent the *living* from entering, or the dead escaping, those gates of hell.

We are urged to forbear insisting on protection, or seeking indemnity from Spain, in *compassion* to her condition. It is impossible not to feel for the degraded, wretched situation of that ill-fated land; but there is no

Spain—there now are "no longer any Pyrenees." Has not humanity suffered enough? Has not the barbarian spirit of that pretended government been sufficiently glutted with the cruelties inflicted on her own subjects, that we too must add to the number of the victims?—What no government could extort from us; shall we yield to the armed band of foreign assassins that, by force, are holding a crown upon the brainless pate of him who has deluged his own country with the best blood of her citizens? But I forbear; I will give better evidence of the gratitude I feel for the attention shown me, than to further trespass on the kindness of the committee.

It has been my purpose to show—

That increase of our naval power, to be employed as is contemplated, promises no efficient remedy for the evil complained of:

That, while it does not afford us protection, it is prodigal both of life and treasure:

That a mere *permission* to merchant vessels to arm, is perfectly nugatory:

The idea of rewarding *captors* of pirates out of their prizes, and pensioning the wounded and widows of the slain, out of five per cent. of the proceeds, seemed to me not to require so much elaborate detail of legislation; in truth, that all the bill proposes is, to build ten sloops of war, a part of which, some years hence, may be at sea.

On the other hand—That our duty requires of us to furnish merchant vessels with armament, and to authorize reprisals upon the inhabitants of Cuba: That these measures are *d mandados*, to avenge the insulted sovereignty of our country, to rescue our violated flag from the bloody hands of barbarians, to shield the unprotected heads of our citizens from the lifted axe of the murderer.

Your gallant tars ask this at our hands; not protection, but the means, and they will protect themselves. In our country's utmost peril, she called on them and they answered from the broadsides of your frigates, in a voice that your enemy heard, understood, and obeyed. In our prosperity, may they not supplicate in vain.

Mr. FORSYTH rose, in reply, and observed, that his opinions must have been very badly expressed, if gentlemen could suppose that he had intended to deny that piracy exists—that it exists in an atrocious form, and ought to be suppressed. But I think, said Mr. F. that the President now has, and has had, both means and power to suppress it. This bill is useless; it diminishes the executive power. All that is sought, by the President, in his communication on this subject, is authority to go to the Spanish Islands. The Committee of Foreign Relations think that he has already power to go to those Islands, and to all the islands in the world. The law of nations gives him this power, as the Executive Magistrate. Why, then, are we called to legalize the act? Is it because there exists some fears that the Executive will be blamed for not having done his duty? Why has piracy not been suppressed? Because the force given to suppress it has been withdrawn. But, inasmuch as complaint is made that the means are not adequate, I am willing to give more means. Two years ago you were told the same thing—the means were inadequate. And you then gave what was supposed to be sufficient, and what you were told, subsequently, effected the object.

In 1822, you were told that light vessels were wanting, to go into the shallow waters; and you gave them. Now you are told that the pirates withdraw from the shallow waters and go into creeks; and that launches are wanting to follow them. Could not launches follow them into creeks last year? Where are all the amount of means that you gave? Dissipated like chaff. The attention of this House and of the public was lately called to a large vessel, recently fitted out. It was a magnificent object, and gentlemen left their seats here to contemplate it with admiration. But the money that

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it cost would have been better spent on a squadron for the West India Station. Where is this magnificent vessel to be sent? Report says on a Quixotic Expedition up the Mediterranean, where it is to display the greatness of our nation and bear what is called the Broad Pendant? The simple state of the question is this: Pirates have been suffered to exist when they ought not. The President says, he wants powers. He has had powers. He says he wants means. He has had means. I would not, said Mr. F. shelter from responsibility any officer of the Government, however high may be his station. The President has wanted neither men nor money. This House has done its duty. A strange opinion seems to have gone forth that this is a degrading service; that the foe is worthless, and that victory will, therefore, be inglorious. I am of a different opinion. These are the only victories which may be said to be unstained. I am content to leave the task to our naval heroes. I believe them to be fully sufficient successfully to accomplish it. I trust they will continue as they have done to strike down these murderers.

Mr. F. observed that he could not dismiss the subject without endeavoring to do justice to the character of an individual, which, in his opinion, had been injuriously attacked. He referred to the Governor General of Cuba, who, under the most trying circumstances, had maintained the character of an independent and honest man; a thing difficult every where—but pre-eminently so under the Spanish Government. Our Government had held him out to the world as such. He begged leave to call the attention of gentlemen to an anecdote which had been related of this officer by our agent at the Havana,\* and quoted by the gentleman from New Hampshire. We are told, by that agent, that a large quantity of doubloons, piratically robbed from an American vessel, had been traced to the village of Regla; that, by order of the Governor, an investigation had been begun, but before that examination had been prosecuted far, it was found that all the inhabitants of Regla would be involved in the affair, and that the Governor had, therefore, declared, that the investigation must proceed no farther. Now this story has on the face of it something very extraordinary. In the first place, doubloons are a species of property not very easily identified. But, in the next place, it was most extraordinary that the Governor General of such a colony as Cuba should make a confession of this kind to a private individual. On what basis does the story rest? We are told that our agent had it from a gentleman of undoubted veracity: that that gentleman told our agent that such a conversation had taken place between Governor Vives and the claimant of the doubloons. Was it the claimant himself who told him so? No, it was another person; and the story, before it reached him, may have gone through a dozen hands. He put it to the candor of gentlemen whether it was fair, on such a ground, to bring a charge so serious against a man universally respected by his own countrymen, both in Spain and in the Colonies. Say what you will, the Governor of Cuba has, in the face of the world, a justification for his conduct. He is placed in a most delicate and dangerous situation. He feels all its danger and all its delicacy. He remembers that he is commanding the richest portion of all the Spanish dominions, and one that hangs to Spain by a single thread. He ever consults first the interest of Spain. He must preserve the popularity of the Spanish Government in the Island. He went there with the deepest reluctance, and after pressing solicitation. He had the liveliest fears as to what might ensue. But he has conducted himself, in his very arduous situation, in a manner which does him lasting honor; and his conduct has received

the public attestation of our own commanding officer on that station in its favor.

Mr. P. P. BARBOUR said, that he had supposed some other gentleman would offer the motion which he was now about to present. But, as they had not done so, he moved to strike out the second section of the bill. The purport of that section, as he understood it, was to impart to the President the power of ordering our forces to land in fresh pursuit of pirates. He objected to any such enactment, as this power was not the subject of municipal legislation. All the authority of gentlemen, on that subject, was derived from national law, and there was a want of fitness in legislating on what the law of nations already settles. The principle of that law, as to pirates, was, that they were enemies of the human race, and that, as such, all Governments were, *ipso facto*, always at war with them. We have a right to suppress piracy, according to the law of nations, and that law expressly allows of landing in fresh pursuit of an enemy.

We cannot increase our rights in respect to other powers by municipal legislation, and certainly we do not wish to diminish them. The principle by which we are to be governed is obviously this: If we wish the Executive to act intraterritorially, then a municipal act directs him what to do. But if we wish him to act extraterritorially, his act falls within the law of nations, and a municipal law is therefore useless. The law of nations is the rule of the Executive, without our saying so, and he has the same right to carry that law into effect which he has to carry into effect any municipal law. All our rights as a nation already exist, and depend on sources beyond our control. For these reasons he thought it was proper that the section should be stricken out, and not because he was opposed to landing in fresh pursuit of pirates.

Mr. POINSETT expressed his agreement with the views of the gentleman who had just taken his seat. He had intended to speak on the general subject, but considering the lateness of the session, and the time which had already been occupied, he relinquished that intention, and implored other gentlemen to do the same, and let the House vote on the bill.

Mr. STRONG expressed a similar sentiment.

The question was then put on striking out the second section, and carried.

Mr. STRONG then moved to strike out all the remainder of the bill after the first section. On the call of Mr. HOOKS, these sections were read.

Mr. WEBSTER observed, in relation to the third section, (which restricts the carrying of specie except as ordered by the President,) that he presumed the Committee on Foreign Relations could tell the House whether any thing now existed to prevent the President from giving such instructions as are contemplated by this section. It was certain that great complaints existed in relation to this matter. They were known to exist in Britain on the same subject. And notwithstanding what had been observed by the gentleman from New Hampshire, much dissatisfaction was felt.

Mr. CROWNINSHIELD observed, in reply, that the President has full power—that when he formerly held the office of Secretary of the Navy, he had himself issued directions on the subject.

The remaining sections were then stricken out.

Mr. FULLER offered a substitute, which, after a short discussion, was rejected.

Mr. WEBSTER moved to strike out the words, "for the more effectual suppression of piracy in the West Indies," (which follow the authority to build the vessels.) He thought the House ought to be careful to avoid all encroachment on the power of the Executive. He believ-

\* From a subsequent explanation of Mr. Randall, it appears that this circumstance occurred before Gen. Vives went to Cuba.

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ed there was no necessity for particularizing the purposes for which we build vessels. The true course was for the Executive to state what he needs, whether in men, ships, or money; and if we conclude to grant it, we are to leave him to use it on his own responsibility. For his own part, he believed that sloops of war would be necessary in times of peace as well as war, and after piracy should be suppressed as at the present.

The motion prevailed, and the words were stricken out.

Mr. FULLER proposed to add a section to the bill, empowering the President to dispose of the schooners and other vessels at present in use, and which were in a state of decay.

Mr. CROWNINSHIELD offered a section of somewhat greater extent, and suggested to Mr. FULLER to accept it instead of that proposed by him. Mr. FULLER consented, and the section was adopted.

Mr. FOOT, of Connecticut, offered an amendment, fixing the rate of freight for the transportation of specie. He observed that some difficulty existed on the subject. That the Navy Department had never yet fixed any rate. In the British navy the price was fixed by an order in council.

Mr. WEBSTER observed, that he had no objection to regulate the subject by law, but thought it had no immediate connection with the present bill.

Mr. FOOT replied, that, by the alterations which had been made, the bill had now become a general one, and this might as well be admitted as other sections. Complaints on the subject were daily increasing especially on South American Stations, and it was very desirable that the matter should be regulated in some way.

The amendment was rejected.

Mr. BUCHANAN then moved to amend the bill, by reducing the number of sloops of war from ten to five, and the sum appropriated from \$500,000, to \$425,000.

In support of his motion, Mr. B. observed, that the present was a bill for the suppression of piracy, and not for the increase of the Navy. He thought that if Congress gave the Executive all he asked, they certainly did all that was needed. The Secretary of the Navy asked only for four sloops of war; he was willing to give him five. (Here Mr. B. quoted the letter of the Secretary.) He thought it was wisest in Congress to keep the power in their own hands. It was manifest, that only 5 sloops could be built, for the \$500,000 would build no more—\$425,000 was sufficient for this purpose, and he therefore proposed that sum. He did not wish to be understood as holding the opinion that it was not proper to increase the Navy, but he did not think it proper to authorize so large an increase of it at the present time.

Mr. WEBSTER hoped that this motion would not prevail. He called the attention of the committee to the situation of the United States, and hoped that while they considered the expense, they would also consider the mode in which it is to be applied. He thought there was much pertinency in a remark made by the gentleman from New Hampshire; (Mr. BARTLETT,) the nation came out of the late war, under a strong excitement in favor of the Navy. The Navy had crowned the nation with glory, and that glory had been won by the use of large ships. Many such were accordingly ordered. But ships of a large size, put at hazard great sums of money. They are often employed for service which might be equally well done by smaller vessels, which would cost, and which would hazard less. But we have no such smaller vessels. If we looked at the naval service in other nations, we should see what a great disproportion existed between the number of our large and our smaller vessels. The service in the West Indies, and the service beyond Cape Horn, did not require such heavy ships—vessels of a smaller class would answer every purpose, at a far less expense. The gentleman from Pennsylvania, (Mr. BUCHANAN,) says it is enough if we give as fast

as the Department asks. But this surely is not a compulsory matter. The Department may ask one thing and we may give another. The Secretary of the Navy asks for frigates, we do not give them—but, instead, we give more sloops of war. These will be of important service on our Eastern frontier, where the British vessels, to say the least, had committed very great mistakes about the bounds of our fisheries. The same observations would apply to the Mediterranean. In the British Navy this class of vessels were in constant use. That government had 80 or 100 sloops of war, all actively employed in various species of service, which do not require a great array of power. Why should we not go so far as to build ten of these vessels? A similar measure had been recommended at the last session. We are told that the Executive is to be held bound to do all he can do without further Legislation. Let us then pass the bill as it is.

Mr. BUCHANAN observed, in reply, that he was sorry at this late hour to come in collision with the gentleman from Massachusetts. He could not but notice, however, that that gentleman had not thought fit to reply to what he had advanced as a principal argument in favor of the amendment he proposed, that only 500,000 dollars were appropriated, and five sloops of war would cost \$425,000. Could we not repose confidence in the next Congress; could we not leave them to judge, since only five ships could be built this year, whether five more would be wanting next year? It was vain to say that a number of ships should be built, not exceeding ten, and then to give means only for five. If ten were intended to be given, they would cost \$850,000. Perhaps it was not held politic to spread such an amount before the people. The Senate had passed a bill for ten sloops of war in the early part of last session. But, during all of last session, and all of the present, until now, the House had refused to take up that bill. Was it proper, at this late moment, to enter into a discussion about the increase of the Navy? We had already spent eight millions on the Navy—he wanted to know how this had been spent; and whether the ships which had been built corresponded with the law. He wanted to know whether the ancient discipline was still continued. He doubted the propriety of incorporating in a bill for the suppression of piracy, provisions which went, in fact, to increasing the Navy.

Mr. TRIMBLE, of Kentucky, observed, that he should vote for the provisions of the bill, because he believed that their tendency in practice would be to diminish the expense of the Navy, and to improve its discipline. The complaints which exist, had arisen from the employment of too many large vessels. There would be no need to put all our large vessels in commission, if we should build small ones. This would be a saving of expense, for we are now driven to use the large, because we have no small. Look at the disproportion in the different branches of our service. The whole amount of our commerce to the Mediterranean, is about one million of dollars, and it has one hundred and ninety guns to protect it. Our trade to Cuba amounts to six or seven millions, and it is protected by only one hundred and fifty-eight guns. This irregularity was occasioned chiefly by want of small vessels.

Mr. FULLER observed, in reply to Mr. BUCHANAN, that it was true that \$500,000 were insufficient to complete the ten sloops of war. But the Senate, in passing their bill on this subject, adopted the principle that ten ought to be built, but only half the money appropriated at first, because, the whole could not be used at once.—Many advantages and much economy would arise from such an arrangement. Contracts could at once be made for the whole of the timber, and materials could thus be more cheaply obtained.

Mr. MC CLOY observed, that the bill was now broken down, to what he had at first expected. He thought

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there was rather an unnecessary agitation about the pirates. He believed that the President had force enough now. But five sloops of war at once was surely enough. Let us leave some to be provided by our successors.

The question was then put on Mr. BUCHANAN'S amendment, and carried—yeas 78, noes 57.

The committee then rose, and reported the bill as amended.

The House concurred in all the amendments of the Committee, saving the last, viz: that reducing the number of sloops, and the sum to be appropriated.

Mr. CAMBRELENG opposed the adoption of the amendment. The gentleman from Pennsylvania had given the House an eulogy on the ancient discipline of our navy. But if he wished to preserve or restore this, his own motion is fatal to the object. We have, at this moment, twenty-nine Masters Commandant, and only five ships of the class requisite to instruct them. It was on this description of officers, that the nation must rely in case of war; their instruction and improvement was an object all important to our naval power and reputation; and I appeal to that gentleman, whether, under such circumstances, the number of ships now proposed, is too great. He had hoped that the gentleman would at least have left the first section of the bill, if it were only for the sake of the impression which our measures are likely to make at Cuba. We began with a dreadful note of preparation; he hoped that our threats would have led to some more formidable measures; he called for the yeas and nays on the amendment. He did think that, when the pirates of Cuba called for American blood, that Congress was bound to respond to such a call.

The yeas and nays were ordered accordingly.

Mr. BUCHANAN, in reply, said the gentleman appeals to me but I can assure him he appeals in vain.—He, however, has been chosen a member of the next Congress—I also have; and if he shall then make to me the same appeal, I promise him that appeal shall not be made in vain.

Mr. WEBSTER observed, that it was not his habit to war against what appeared to be the will of the House; but, in the present case, he thought the answer to the objections urged was obvious and easy; and he felt great surprise that the gentleman should argue so strenuously from the sum being less than is needed for the ships. This House always appropriate, during any current year, less than the whole expense of any great object, requiring much time for its completion, because the whole sum cannot be used, and is not, therefore, needed in one year. Some of the proposed ships may be built out of timber already in the Navy Yards. The residue of the money may go to buy more timber. It is by no means necessary that the very materials purchased by the appropriation must be applied to this particular object. They may be taken from any stock of materials in possession of the Government, which will best answer the purpose, provided that stock is again replaced. The object of the bill he thought to be obvious; if the President orders ten keels to be laid, it can be done: that is not to say, that all ten of the vessels must be finished this year; we must begin before we end. Many public works were, from their nature, gradually progressive. When we contemplate a fortification, for instance, we assign for its completion a much larger sum than we grant for it in any one year. We take time by the forelock. We avail ourselves of advantages in contracts and purchases, and thus consult the public economy. This year we appropriate towards these vessels only half a million. The remaining \$300,000 we appropriate next year. They are designed for a most useful and needful service; they are, in fact, indispensable to complete our naval establishment. They ought to be built, if only on principles of economy; and the policy which dictates the present bill, is a wise foreseeing and provident policy, and as such ought to be pursued.

Mr. FOOT, of Connecticut, observed, that the gentleman from Pennsylvania, (Mr. BUCHANAN,) asks—Why need ten of these ships to be built? Let the gentlemen look at the accounts daily received from the Pacific.—He will there perceive that the difficulties of our commerce are daily increasing; that our force on that station is not sufficient. Our naval commanders have been forced to take our vessels under their protection, and have been scarce able to accomplish the object. The ships would be needed if no piracy existed whatever.

Mr. BUCHANAN observed, in reply to Mr. WEBSTER, that that gentleman had begun his speech in a manner he did not expect from him, and had expressed himself as much amazed that he (Mr. B.) should not be able to comprehend how the money appropriated is spent. He must have been very stupid indeed, to doubt for a moment that any sum that we may appropriate would be spent by the Navy Department. But he knew that timber was already bought, and he did not see the necessity of appropriating money to buy it. He, too, was for beginning before we end. He would begin now with five ships, and end next Congress with five more. He was sorry to repeat an argument he had already more than once employed: but he could not comprehend why there should be so much tenacity manifested for building ten ships, when the 500,000 appropriated, would not build them. But he presumed the plan was now, to get the House to say, that the ships shall be built, and then to say, that next session the money required must be appropriated. He was opposed to this proceeding. Why should not the House retain its discretion, as to granting or not granting the means to build the other five, if at next session we should deem them necessary?

Mr. WEBSTER answered, that there was no concealed purpose on the part of the friends of the bill. Every body knew that the ships would cost, not \$500,000, but \$800,000. Whoever voted for the building of them, would vote with this understanding. But only \$500,000 were now to be appropriated, because no more would be wanted the present year. The building of the whole could not be accomplished in one year, but if the building of the whole shall be authorized, the requisite preparations may be made to the best advantage, and thus public economy be consulted.

Mr. LIVINGSTON rose for the purpose of informing the House that it had been ascertained by the Board of Naval Commissioners that six of these vessels can be built in the course of the present year, out of materials now on hand. The present appropriation will, therefore, be sufficient to complete the whole.

The question was then taken on Mr. BUCHANAN'S amendment, (reducing the number of vessels to five, and the appropriation to \$425,000,) and decided by yeas and nays, in the negative—yeas 72, nays 76.

The bill was then ordered to a third reading.

ON THE SAME DAY—

The bill having received its third reading, and the question being on its final passage,

Mr. ROSS, of Ohio, spoke in earnest opposition to it. The question had now become this: Whether we will increase the navy of the United States? The bill was no longer a provision against piracy, but a bill for the increase of the navy. If vessels of the kind proposed were needed, he thought we had enough of them already. We had twelve or thirteen schooners, a kind of vessel very similar to those now to be built, as well calculated for the purpose intended as these sloops of war; and the debate came back to the simple question, whether this House will grant an appropriation for the general increase of the navy? and not for any specific purpose. He wished to turn the attention of the House to the expense unavoidably attendant on such a measure. He thought that, when that expense was duly considered, gentlemen would feel inclined to pause, and would endeavor to be better satisfied of the necessity of the



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expense before they passed this bill. It was not to be disguised, that the argument which had prevailed thus far with the House, was based on the necessity of building these vessels for the avowed purpose of putting down piracy. This, however, was now discarded and thrown quite out of view, and we were to build these sloops of war to increase our naval force. It appeared, from the estimates, that each of these vessels will cost 85,000 dollars. If ten of them are built, they will cost 850,000 dollars. The contingent expenses of one of these ships are 61,000 dollars; for the ten, it will be 610,000 dollars. The interest of the cost, together with this contingent expense, will cost the nation upwards of 1,000,000 dollars annually; and this expense is to be permanent so long as these vessels continue in service. We are called upon to do this directly in the face of the law of 1821-22. We are called upon to alter the policy we then established, and appropriate 1,400,000 dollars, instead of the small sum which we then determined should be appropriated for the increase of the navy. If it was necessary then to reduce our expenses, Mr. R. was by no means convinced that it was as necessary now why we should add the difference between 500,000 and 1,400,000 to the national burden. The vessels we purchased before are still in existence, and our sea ports are lined with officers. The bill had indeed been trimmed down, but he was still opposed to it as unnecessary and extravagant.

Mr. COOK, of Illinois, followed on the opposite side. He said it might be thought, that as he represented that state, which was the furthest of any from the ocean, he neither knew nor cared much about a bill which related wholly to naval affairs; but if any gentleman had drawn that conclusion, they had misunderstood him, and misunderstood the West. The Western country knows and feels that it is dependant for its prosperity, to a very great extent, on the owners of our shipping. It is through them that the trade of the interior gets an outlet to the ocean, and it has experienced the vast advantage which has been conferred by the navy on the security and advancement of the commerce of the country. The West has an extensive interest in enjoying a market for its product. In the present state of the country, the only market for a very large portion of the interior, is found at New Orleans; and the Western states have, therefore, a direct concern in the protection of the trade in the Gulf of Mexico, from those vile marauders, who have so long vexed and harassed it.

He thought that the whole country had a common interest in hunting those murderers from their lurking places, and executing upon them the punishment they deserved. The existence of piracy was a disgrace, as well as an injury to the country, and it was the interest of those on the land, equally with those on the sea, that it should be promptly and effectually put down. Gentlemen ought all to endeavor to bring home to their own bosoms the injuries and sufferings of their fellow citizens exposed to these merciless monsters. He hoped there would be no reluctance manifested. He hoped, especially, that the West would not hesitate, but that those members who came from the remotest parts of the interior would vie with those on the sea-board in exertions for the common protection.

Mr. WOOD, of New York, observed, in reply to Mr. Ross, that that gentleman was mistaken in supposing that this bill was at war with the principles of economy. On the contrary, experience had proved, that there was no class of vessels so cheap as that now proposed; the plan of the bill was eminently an economical plan. The expense of a 74 gun ship was five times as great as that of a sloop of war. Allowing one of the latter to cost \$70,000, five of them will cost \$350,000, but one 74 costs \$370,000. These sloops, while costing less than a 74, employ at the same time, 200 more men. There was no comparison as to the efficiency of the two kinds of ves-

sels in time of peace. Our 74's, as such, are now in a great measure useless. They are employed only for the want of smaller vessels. Sloops of war employ more men and more officers. They afford a desirable opportunity of making our midshipmen into masters, and furnish the best and only effectual means to train up officers for the navy service. It is in vain you give them education in a school, of however excellent a kind; a naval officer must be a sailor, or he is utterly inefficient. If Congress mean to make the navy an effectual arm of defence, they must provide it with officers who have not only theory but practice. To this end, the plan of the present bill is the most efficient, while it is the most economical.

Sloops of war only draw 12 feet; they are able, therefore, to penetrate almost all rivers, where we have any commerce. Most of the rivers in South America are not navigable for 74's. Sloops, owing to their small draft, are well adapted to the chase of slave ships, pirates, and smugglers, and these are all we have to encounter in time of peace. This description of vessels was omitted in 1816, because the nation had recently felt the benefit of large ships, and it ordered them accordingly; but as they could not be built except in a long time, and small vessels could be built almost immediately, it ordered many of the latter also. The adoption of a middle course is no invasion of that plan. The bill does not compel the building of these vessels, but leaves it discretionary with the Executive. He was persuaded that officer would exercise his discretion soundly. It might safely be trusted in his hands. If only four of these vessels are wanted, only four will be built; if more are built, it will be because they are needed.

Mr. NEWTON, of Va. supported the bill. If the House should now reject it, it was too late to originate a new one, and the commerce of the country would be left to the depredation of the pirates to the next session. A state of things which would cost the nation fifty times as much as the whole amount of the bill.

Gentlemen ought to consider that all the necessities of life are exported to the West Indies, and that the West and the South are equally interested in the market with the North and East. The whole nation had an interest in supporting this trade. The West Indies, in fact, presented our best market; there we sent our food; there we sent our manufactures. There was no member on the floor more ready to meet responsibility than he was. But the responsibility of destroying this bill, and exposing our West India commerce, was one from which he must shrink. He held it to be the great duty and interest of the nation to keep up our navy; we are the solitary republic towards whom all look who are struggling for freedom in the old world or the new. If you reject this bill, it will have a most injurious impression in Mexico, and throughout all the Gulf. He thought the interest at stake too important thus to be put by.

The question was then taken on the passage of the bill, and carried by a large majority; its title was amended, so as to read, "An act to authorize the building of ten sloops of war, and for other purposes," and it was then sent to the Senate for concurrence.

[The Senate subsequently concurred in all the amendments made to the House by this bill.]

Mr. STORRS offered the following:

*Resolved*, That the Postmaster General be directed to communicate to this House, annually, at each session of Congress, a statement of the amount of postage accruing in the preceding year, at each of the post offices in the several states and territories of the United States, classifying the said accounts of postage so accruing, by states and territories.

Mr. COOK, of Illinois, offered the following resolution, which lies on the table:

*Resolved*, That the President of the United States be requested to prepare and report to this House, at the

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Massachusetts Claims, &amp;c.

[MARCH 2, 1825.]

next session of Congress, such a system as he may deem best calculated to produce all the effects designed by the infliction of imprisonment and hard labor for offences against the laws of the United States.

There being no quorum, an adjournment was moved and negatived.

On motion of Mr. SCOTT, the House went into committee of the whole, Mr. HERRICK in the chair, on the bill authorizing the President of the United States to cause a road to be marked out from Missouri to the confines of New Mexico; it was reported without amendment.

Mr. M'DUFFIE objected to the bill, as being for External Improvement, and moved that it lie on the table. The motion was carried—Ayes 68, Noes 48.

#### IN SENATE—WEDNESDAY, MARCH 2, 1825.

The committee appointed to make such arrangements as may be necessary for the reception of the President of the United States, on the occasion of his inauguration, reported, in part, the following resolution:

*Resolved*, That the Secretary of the Senate inform the House of Representatives, that the President Elect of the United States, on Friday next, at 12 o'clock, will take the oath of office required by the Constitution, in the chamber of the House of Representatives; and that he also inform the President Elect, that the Senate will be in session at that time."

#### HOUSE OF REPRESENTATIVES—SAME DAY.

##### MASSACHUSETTS CLAIMS.

Mr. HAMILTON, in moving that the Committee on Military Affairs be discharged from the further consideration of the President's late message, urging on Congress the immediate adjustment of the claim of Massachusetts for militia services during the late war, said he was authorized to say, that the Committee, participating in the desire felt by the President for the settlement of the claim in question, had submitted to the joint delegations from Massachusetts and Maine, a proposition to report immediately a short bill for the payment of so much of the claims as might be free from all constitutional objection; but these gentlemen, deeming such a course inexpedient, and that, from the indications of the House, it was not intended this session to discuss the subject, (from, he believed, an entire misapprehension on the part of the House, that the topic involved a long and perhaps unpleasant discussion,) had declined accepting this partial measure, under a belief that it might ultimately be prejudicial, if any hope could have been entertained, that it would, within the last ten days, have been considered by the House. This state of things left the committee no other course than to move that they be discharged from the further consideration of the recent message of the President, on the claims of Massachusetts for certain militia services rendered during the late war.

The Committee were then discharged, agreeably to the motion of Mr. H.

The resolution yesterday laid on the table by Mr. TRIMBLE, calling on the Secretary of the Treasury to state his opinion of the probable effect of the warehousing system on the revenue, was taken up and agreed to.

Mr. CAMBRELENG offered the following resolution, which lies one day:

*Resolved*, That the Secretary of State be directed to communicate to Congress, at its next session, if compatible with the public interest, such correspondence as may have taken place with Great Britain, relating to the navigation of the St. Lawrence."

Mr. TUCKER offered the following, which lies on the table:

*Resolved*, That the Secretary of War be required

to ascertain the probable expense of extinguishing the Indian title to a portion of the country lying west of the Rocky Mountains, that may be suitable for colonizing the free people of color, the best known route across the said mountains, and the probable cost of a road and military posts necessary to a safe communication with such colony, and to report thereon to the House at the next session of Congress."

Mr. HAMILTON, of South Carolina, said he wished the gentleman would withdraw his motion, to give him an opportunity of expressing his sentiments on so extraordinary a proposition, on which there prevailed a distempered enthusiasm, which ought, for the interest of the country, to be repressed.

The motion was not withdrawn, but, after some further remarks, the resolve was ordered to lie on the table.

Mr. MERCER called up the consideration of the resolution reported by the Committee on the Slave Trade, requesting the Executive to continue negotiations with foreign powers, for the purpose of its final suppression.

The question of consideration being put, it was decided in the negative. So the House refused now to consider the resolution.

The House then went into committee of the whole, on the bill concerning the Copper Mines on the South side of Lake Superior.

Mr. COCKE inquired for farther information; and a letter from Mr. Schoolcraft, the Mineralogist, was read.

Mr. OWEN moved to strike out all of the bill after the enacting clause, and substitute the body of another bill for adjusting certain land claims.

The Chair pronounced the motion out of order.

Mr. COCKE then stated that he had just received information from the Delegate from Michigan, which induced him to believe the Copper Mines in question were of great value—and that the longer the purchase was deferred, the more its price would be enhanced.

Mr. ELLIS opposed the bill. It was beneath the dignity of the government, he said, to seize upon a feature of value in the Indian country the moment it was heard of, &c.

Mr. RANKIN deprecated the interference of the United States in mining property. The experience of the government, in relation to lead mines and salt springs, afforded a warning on the subject. He moved to strike out the enacting clause.

Mr. RICHARD, Delegate from Michigan, stated the facts of the case. One vein of very pure ore had been discovered, of six feet in thickness, he said, and of great, and at present, unknown length. The value of this mine made it very important to legislate on the subject, &c.

Mr. CONWAY, the Delegate from Arkansas, corroborated this statement. Masses of Copper had been found there, he said, weighing several hundred pounds. He replied to the remarks of Mr. RANKIN. The bill only looks to the extinguishment of Indian title to a small tract of country embracing the mine, which, if not worked by the Government, might be sold to great advantage.

Mr. WHIPPLE opposed the bill. He did not doubt the existence of quantities of copper there—but the transportation, &c. would make it cost more than that imported.

Mr. STRONG advocated the object of the bill. Its object was not to extinguish the Indian title to the tract, but to have the country thoroughly explored, and, if copper exists, as is represented, to get the right over it for the United States, by purchase.

Mr. MCCOY opposed the bill. Mines were the last property, he said, for which he would vote away the public money.

Mr. WOOD stated facts, and quoted Long's Expedition, to show that the mine would be of no value till local commerce required copper in that neighborhood.

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The question being put, the enacting clause of the bill was stricken out.

So the bill was rejected.

The resolution offered by Mr. TRIMBLE, yesterday, calling on the Secretary of the Treasury for certain statements in relation to the effect of the warehousing system, was taken up and adopted.

The bill from the Senate to authorize the President of the United States to cause a road to be marked out from the Western frontier of Missouri to the confines of New Mexico, yesterday laid on the table, was again taken up.

Mr. McCOY moved to lay it again on the table. The motion was negatived—yeas 49, noes 79.

The bill was ordered to a third reading, read a third time, passed, and returned to the Senate.

The House then went into committee of the whole, Mr. ARCHER in the chair on the bill to provide for the security of public money in the hands of Clerks of Courts, Marshals, and Attorneys; which was reported.

Mr. WEBSTER stated reasons which induced the Committee on the Judiciary to think the bill unnecessary, the case being already provided for by law; and he moved to lay it on the table. The motion was negatived, and the bill was then passed, and sent to the Senate.

The House then took up the bill to secure the accountability of public officers; (which bill lay on the table.) On motion of Mr. COCKE, it was slightly amended, when Mr. WEBSTER moved that it lie on the table. The motion was lost.

Mr. WEBSTER objected to passing the bill without some statements from the Committee who reported it; the bill contained important provisions, and some of which, as at present informed, he thought of doubtful expediency.

Mr. BUCHANAN expressed a similar sentiment, and thought it improper to legislate without farther light.

Mr. WHIPPLE explained the objects of the bill, and contended for its justice and propriety.

Mr. WEBSTER enforced his objections. The bill stopped the salary or other dues of sureties from government, before any judgment was obtained against the persons for whom they became security.

Mr. WHIPPLE replied—the surety was entitled to have a suit in sixty days, and the suit would not, in common cases, occupy a long time, &c.

Mr. BUCHANAN, wishing the bill to be better understood, moved its indefinite postponement.

Mr. INGHAM gave some explanation of the bill as originally reported, but objected to the amendment, which had been incorporated with it.

The question being taken on indefinite postponement, Mr. FORSYTH demanded the Yeas and Nays; which were ordered.

Mr. LITTLE then moved to recommit the bill to a committee of the whole, and make it the order of the day for to-day; which motion was agreed to.

[The bill was thus finally disposed of, not being afterwards taken up.]

The House again went into committee of the whole, Mr. CAMPBELL, of Ohio, in the chair, on the bill to secure the accountability of public officers.

Mr. McLANE stated that it had not been the intention of the Committee of Ways and Means to call up the bill, and he did not hold himself prepared to act upon it.—The object of the bill had substantially been obtained by a section of another act passed at the present session.

The clause before moved by Mr. COCKE, (extending the operation of the bill to sureties as well as principals) was stricken out.

Mr. DUFFEE moved to strike out the third section, forbidding the appointment to office, by the President and Senate, or any one who is indebted to the Government. The motion was supported by the mover, by Mr. WEBSTER, Mr. McLANE, of Delaware, and opposed by

Mr. COCKE. It was carried. The bill was then reported as amended.

Mr. STRONG moved to lay it on the table.

For this motion there were, yeas 57, noes 41.

This not being a quorum, on motion of Mr. LITTLE, the House went into recess till 6 o'clock.

#### EVENING SESSION—6 o'clock.

The bill to secure the accountability of public officers, pending on the adjournment to-day, was ordered to lie on the table (rejected.)

Mr. CALL moved to take up the bill establishing a navy yard at or near Pensacola. The motion was agreed to—yeas 66, noes 44.

The House accordingly went into committee of the whole, Mr. TOMLINSON in the chair, on that bill.

A debate arose upon this bill, of considerable interest, in which Mr. CALL, WOOD, of N. Y., CLAY, and TATTINALL, took part, in which the bill was supported with great earnestness by Mr. CALL and Mr. TATTINALL, and opposed by Mr. BARTLETT. On motion of Mr. WEBSTER, the bill was modified by an amendment, so as to authorize the Secretary of the Navy to locate the navy yard on any point in the Gulf of Mexico. In this form it was advocated by Mr. WOOD and Mr. CLAY, and having been reported, it was ordered to a third reading—and was subsequently read a third time, passed, and returned to the Senate for concurrence in the amendment.

#### IN SENATE.—THURSDAY, MARCH 3, 1825.

The Senate having finished the business of the session, Mr. SMITH offered the following resolution, which was unanimously adopted:

*Resolved*, That the thanks of the Senate be presented to the Hon. JOHN GAILLARD, President of the Senate pro tempore, for the ability, impartiality, and integrity, he has evinced in discharging the arduous and important duties of his station.

Whereupon, Mr. GAILLARD rose, and delivered the following address:

*Gentlemen*: The standing of this Body in public estimation, and the character it has to sustain, can never fail to ensure to your Presiding Officers an exemption from much of those difficulties and embarrassments that are sometimes to be encountered by those who are called upon to preside over deliberative assemblies; and the experience which I have had of your liberality, furnishes abundant proof that they may always rely on your patient endurance and indulgent support. Actuated by an anxious desire to endeavor to meet your reasonable expectations, however I might fail in the attempt; and influenced, I trust, by no other considerations than such as would lead to a faithful and impartial discharge of the duties confided to me; the gratification I derive from this assurance of your satisfaction, is only to be surpassed by the profound respect and gratitude with which it is received. In the hope and expectation that most of us may again be assembled together at this place, under the same kind and friendly feelings which have heretofore prevailed within these walls; and with the prospect before us of soon being permitted to return to our homes, families, and friends, and the associations connected with objects so dear and so interesting; the pleasure arising from the termination of our session would have been without alloy—but, for the recollection that we shall then have to separate, and, from the vicissitudes attendant on human life and human affairs, perhaps forever, from many valued associates, esteemed for their worth, respected for their virtues, endeared to us by long, social, and friendly intercourse, and who will, I am persuaded, carry with them to their retirement our respect, esteem, and regard.

I avail myself of this occasion to express to them and

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to all of you, gentlemen, in the utmost sincerity of heart, the high sense of gratitude which I feel for the many acts of kindness and of favor that you have bestowed on me: they have been such as can never be effaced from my memory, and they will ever be to me a source of proud and of grateful recollections. Accept, I pray you, individually, as well as collectively, an affectionate farewell, and my best wishes for your health, happiness, and prosperity.

#### HOUSE OF REPRESENTATIVES—SAME DAY.

Mr. FORSYTH laid upon the table the following resolution:

*Resolved*, That while this House anxiously desires that the Slave Trade should be universally denounced as Piracy, and, as such, should be detected and punished under the law of nations, it considers that it would be highly inexpedient to enter into engagements with any foreign power by which all the merchant vessels of the United States would be exposed to the inconveniences of any regulation of search from which any merchant vessels of that foreign Power would be exempted."

The resolution lies on the table.

Mr. FORSYTH also offered the following:

*Resolved*, That the purchase of lands from the Indians occupying it in the state of Georgia, is a peaceable extinguishment of their title; and that a purchase should be made, if it can be effected on reasonable terms, although the residue of the tribes to which the said Indians may be attached should not join in the contract."

This resolution, also, was, on motion of the mover, ordered to lie on the table.

On motion of Mr. MARKLEY, of Penn. it was

*Resolved*, That the thanks of this House be presented to the Hon. HENRY CLAY, for the able, impartial, and dignified manner in which he has presided over its deliberations, and performed the arduous and unpleasant duties of the chair, during the present session of Congress."

A few minutes after this vote, Mr. CLAY, the Speaker, having resumed the Chair, addressed the House as follows:

"GENTLEMEN: For the honorable testimony which you have been pleased this day to express to my official conduct in this highly distinguished station, I pray you to accept my profound acknowledgments. Near fourteen years, with but two comparatively short intervals, the arduous duties of the Chair have been assigned to me. In that long period, of peace and of war, causes from without and within, of great public excitement, have occasionally divided our councils, disturbed our harmony, and threatened our safety. Happily, however, past dangers, which appeared to encompass us, were dispelled, as I anxiously hope those of the present will be, in a spirit of mutual forbearance, moderation, and wisdom. The debates in this House, to which those causes gave rise, were sometimes ardent and animated; but, amidst all the heats and agitations produced by our temporary divisions, it has been my happy fortune to experience, in an unexampled degree, the kindness, the confidence, and the affectionate attachment of the members of the House. Of the numerous decisions which I have been called upon to pronounce from this place, on questions often suddenly started, and of much difficulty, it has so happened, from the generous support given me, that not one of them has ever been reversed by the House. I advert to this fact, not in a vain spirit of exultation, but as furnishing a powerful motive for undissimulated gratitude.

In retiring, perhaps for ever, from a situation with which so large a portion of my life has been associated, I shall continually revert, during the remainder of it, with unceasing respect and gratitude, to this great theatre of our public action, and with the firm belief that the

public interests and the liberty of our beloved country will be safely guarded hereafter, as they have been heretofore, by enlightened patriotism.

Gentlemen: In returning to your respective families and constituents, I beg all of you, without exception, to carry with you my fervent prayers for the continuation of your lives, your health, and your happiness."

Mr. NEWTON offered the following resolution, which lies on the table:

"Whereas the encouragement of Agriculture and Manufactures has ever been considered the best means of developing the resources of a nation, and of giving to its navigation and commerce support, extension, activity, and duration: and whereas opening roads, and connecting, by canals, lakes, bays, and rivers, for purposes of intercourse and trade, have also been objects of primary importance to every enlightened government; and whereas the United States, when the fertility of their soil, the variety of their climates, the diversity of their productions, and the extent of their waters and water-courses, are taken into view, will derive the greatest advantages from a system judiciously formed, and carried into execution, with respect to Internal Improvements; and whereas nothing can tend to generate and perpetuate the affection of the citizens for their country so much as the attention of the Government thereof to whatever relates to their different interests, all which receiving, respectively, their portion of the solicitude and care of the Government, and flourishing under its operation, will increase the strength of this Union, give to it stability and security, and, by diffusing knowledge, remove prejudices as to subjects, the importance of which, to be politically and rightly understood, should be fully understood: Therefore

*Resolved*, That a Department, to be denominated the Home Department, should be established, for the purpose of superintending whatever may relate to the interests of Agriculture and Manufactures, the promotion of the progress of Science and the Arts, the intercourse and trade between the several states by Roads and Canals, and all other subjects and matters appertaining to the cognizance of such Department."

Mr. FLOYD required the question of consideration on the resolution, with a view to stamp it at once with the disapprobation of the House.

The question being taken on considering this resolve, it was decided in the negative.

Mr. TUCKER, of Va. called for the consideration of the resolve yesterday submitted by him, looking to the Colonization of the free people of color beyond the Rocky Mountains; which motion the House refused now to consider.

Mr. WEBSTER said, that, as the attention of the House seemed not occupied for the moment, he would take the opportunity of making a remark on a subject, in relation to which he had, at the last session, created some expectation in the House, and perhaps in the country: he meant the question of a general bankrupt law. His relation to the House, as a member of the Committee on the Judiciary, had occasioned sundry resolutions upon that subject, and divers petitions to be brought to his attention. It would be remembered, that a majority of the Committee at the last session had reported against the expediency of a general system of bankruptcy. Differing from the Committee in that opinion, he had signified an intention of obtaining, if he might, an expression of the opinion of the House upon it, so soon as a matter intimately connected with the question then pending, and still pending, before the Supreme Court, should be decided. It was well known that the State insolvent laws, so far as they applied to contracts entered into before the enactment of those laws, had been declared inoperative upon those contracts. The more general question remained to be decided, viz: Whether such laws can constitutionally impair the vali-

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National Bankrupt Law.

[H. of R.]

dity of any contracts, whether precedent or subsequent. When he called the attention of the House to this subject at the close of the last session, it was expected that an earlier day would be fixed for the assembling of the Court this year; and that, in consequence of such arrangement, the decision of this question might be had in season for the House to act on the subject with a full knowledge of what the exigency required at the present session. That arrangement, however, was not carried into effect. The bill to execute it passed this House, but did not get through the Senate, and up to this moment, he had not learned that that tribunal had pronounced its judgment in the case. He thought that decision would naturally be thought important to enlighten useful and practical legislation; although, for one, he was not of opinion that its decision, either way,

would remove the necessity of establishing a general system. He remained fully of opinion that, in a country so commercial, with so many states, having almost every degree and every kind of connexion and intercourse among their citizens, true policy and just views of public utility required that so important a branch of commercial regulation as bankruptcy, ought to be uniform throughout all the states; and, of course, that it ought to be established under the authority of this Government. For his part, entertaining this opinion, he should be disposed to give an earnest attention to the measure, and devote any portion of time and labor to its preparation, whenever it should appear to be the sentiment of the House that it ought to be adopted.

Soon after this, the House adjourned *sine die*.

### END OF THE DEBATES.

[We have thus arrived at the close of the Second Session of the Eighteenth Congress; of the Debates and principal incidents of which we have furnished an account as ample as our materials would allow, and faithful as far as it goes, with the allowance for accidental error which is due to all human efforts. As, in drawing to its close, the Session will appear to have been barren of interest, when it would naturally be supposed to be most fruitful of incident, it is necessary to explain, that very little debate usually takes place within the last ten days of a Session, the time of both houses being employed in perfecting business already matured by the committees, &c. principally upon private bills, which seldom elicit more than a passing remark from the chairman of the committee which reported each bill, and sometimes not even that. We have known, in the last week of the Session, as many as forty bills pass in one day; but, as they pass without *debate*, and without any *incident* worthy of record, those proceedings find no place in this volume, the object of which is not to journalize the proceedings of Congress, but rather to embody the spirit of those legislative measures and occurrences of each year which form so important a part of the history of the Government. It may be necessary further to add, to account for the scantiness of the matter of the three last days of the Session, during two of which, at least, Congress are known to sit long and late, that a joint rule of the two Houses forbids any act from being received from either House during the three last days, thus confining the proceedings in each House, on those days, to such acts as have already been discussed and passed in the other House, leaving to each House, respectively, little to do but to adopt or reject what has been proposed to it by the other. On the last day of the Session, it is ordered that no bill shall pass either House—a regulation intended to allow the President a reasonable time, before the adjournment, to give his assent or dissent, with deliberation, to the bills presented to him for his signature. Such as wish to know whether any particular measure debated during the Session became a law, and those also who desire to know what laws passed without debate, will be gratified, as already intimated in the Preface, by turning to the complete publication of the Laws of the Session, which will be found at the close of the volume.—EDITORS.]





# APPENDIX

## TO THE REGISTER OF DEBATES IN CONGRESS.

18th CONGRESS—SECOND SESSION.

### List of Members of the Senate and House of Representatives of the United States.

#### Senate.

**MAINE**—John Chandler, John Holmes.  
**NEW HAMPSHIRE**—Samuel Bell, John F. Parrott.  
**MASSACHUSETTS**—James Lloyd, Elijah Hunt Mills.  
**CONNECTICUT**—Henry W. Edwards, James Lannan.  
**RHODE ISLAND**—James D'Wolf, Nehemiah R. Knight.  
**VERMONT**—William A. Palmer, Horatio Seymour.  
**NEW YORK**—Rufus King, Martin Van Buren.  
**NEW JERSEY**—Mahlon Dickerson, James M'Ilvaine.  
**PENNSYLVANIA**—Walter Lowrie, William Findlay.  
**DELAWARE**—Nicholas Van Dyke, Thomas Clayton.  
**MARYLAND**—Edward Lloyd, Samuel Smith.  
**VIRGINIA**—James Barbour, Littleton W. Tazewell.  
**NORTH CAROLINA**—Nathaniel Macon, John Branch.  
**SOUTH CAROLINA**—John Gaillard, Rob't Y. Hayne.  
**GEORGIA**—John Elliott, Thomas W. Cobb.  
**KENTUCKY**—Richard M. Johnson, Isham Talbot.  
**TENNESSEE**—Andrew Jackson, John Henry Eaton.  
**OHIO**—Benjamin Ruggles, Ethan A. Brown.  
**LOUISIANA**—Josiah S. Johnston, Dominique Bouligny.  
**INDIANA**—James Noble, Waller Taylor.  
**MISSISSIPPI**—Thomas H. Williams, David Holmes.  
**ILLINOIS**—Jesse B. Thomas, John McLean.  
**ALABAMA**—William R. King, William Kelly.  
**MISSOURI**—David Barton, Thomas H. Benton.

#### House of Representatives.

**MAINE**—William Burleigh, Joshua Cushman, Ebenezer Herrick, David Kidder, Enoch Lincoln, Stephen Longfellow, Jeremiah O'Brien.—7.  
**NEW HAMPSHIRE**—Ichabod Bartlett, Matthew Harvey, Arthur Livermore, Aaron Matson, Wm. Plumer, Jr. Thomas Whipple, Jr.—6.  
**MASSACHUSETTS**—Samuel C. Allen, John Bailey, Francis Baylies, Benjamin W. Crowninshield, Henry W. Dwight, Timothy Fuller, Aaron Hobart, Samuel Lathrop, John Locke, Jeremiah Nelson, John Reed, Jonas Sibley, Daniel Webster.—13.  
**RHODE ISLAND**—Job Dufree, Samuel Eddy.—2.  
**CONNECTICUT**—Noyes Barber, Samuel A. Foot, Ansel Sterling, Ebenezer Stoddard, Cideon Tomlinson, Samuel Whitman.—6.  
**VERMONT**—William C. Bradley, Daniel A. A. Buck, Samuel C. Crafts, Rollin C. Maltby, Henry Olin.—5.  
**NEW YORK**—John W. Cady, Churchill C. Cambreleng, Lot Clark, Ela Collins, Hector Craig, Rowland Day, Justin Dwinell, Lewis Eaton, Charles A. Foote, Joel Frost, Moses Hayden, John Herkimer, James L. Hogeboom, Lemuel Jenkins, Samuel Lawrence, Elisha Litchfield, Dudley Marvin, Henry C. Martindale, John J. Morgan, John Richards, Robert R. Rose, Peter Sharpe, Henry R. Storrs, James Strong, John W. Taylor, Egbert Ten Eyck, Albert H. Tracy, Jacob Tyson, William Van Wyck, Stephen Van Rensselaer, Isaac Williams, Parmenio Adams, Silas Wood, William Woods.—34.  
**NEW JERSEY**—George Cassedy, Lewis Condict, Daniel Garrison, George Holcombe, James Matlack, Samuel Swan.—6.

**PENNSYLVANIA**—James Allison, Samuel Breck, John Brown, James Buchanan, Samuel Edwards, William Cox Ellis, Patrick Farrelly, John Findlay, Walter Forward, Robert Harris, Joseph Hemphill, Samuel D. Ingham, George Kremer, Samuel M'Kean, Philip S. Markley, Daniel H. Miller, James S. Mitchell, Thomas Patterson, George Plumer, George Wolfe, Andrew Stewart, Alexander Thompson, Daniel Udree, Isaac Wayne, James Wilson, Henry Wilson.—26.

**DELAWARE**—Louis M'Lane.

**MARYLAND**—William Hayward, Jr. Joseph Kent, John Lee, Peter Little, Isaac M'Kim, George E. Mitchell, Raphael Neale, John S. Spence, Henry R. Warfield.—9.

**VIRGINIA**—Mark Alexander, William S. Archer, Philip P. Barbour, John S. Barbour, Burwell Bassett, John Floyd, Robert S. Garnett, Joseph Johnson, Jabez Leftwich, William M'Coy, Charles F. Mercer, Thomas Newton, John Randolph, William C. Rives, Arthur Smith, William Smith, Alexander Smyth, Andrew Stevenson, James Stephenson, George Tucker, John Taliaferro, Jared Williams.—22.

**NORTH CAROLINA**—Henry Conner, John Culpeper, Weldon N. Edwards, Alfred M. Gatlin, Thomas H. Hall, Charles Hook, John Long, Willie P. Mangum, Romulus M. Saunders, Richard D. Spaight, Robert B. Vance, Lewis Williams.—12. One vacant.

**SOUTH CAROLINA**—Robert Campbell, John Carter, Joseph Gist, Andrew R. Govan, James Hamilton, Jr. George M'Duffie, Joel R. Poinsett, Starling Tucker, John Wilson.—9.

**GEORGIA**—Joel Abbot, George Cary, Alfred Cuthbert, John Forsyth, Edward F. Tattnall, Wiley Thompson.—6. One vacant.

**KENTUCKY**—Henry Clay, (*Speaker*) Richard A. Buckner, Robert P. Henry, Francis Johnson, John T. Johnson, Robert Letcher, Thomas Metcalfe, Thomas P. Moore, Philip Thompson, David Trimble, David White, Charles A. Wickliffe.—12.

**TENNESSEE**—Adam R. Alexander, Robert Allen, John Blair, John Cocke, Samuel Houston, Jacob C. Isaacks, James B. Reynolds, James T. Sanford, James Standefer.—9.

**OHIO**—Mordecai Bartley, Philemon Beecher, John W. Campbell, James W. Gazlay, Duncan M'Arthur, William M'Lean, John Patterson, Thomas R. Ross, John Sloane, Joseph Vance, Samuel F. Vinton, Elisha Whittlesey, William Wilson, John C. Wright.—14.

**LOUISIANA**—William L. Brent, Henry H. Gurley, Edward Livingston.—3.

**MISSISSIPPI**—Christopher Rankin.—1.  
**INDIANA**—Jacob Call, Jonathan Jennings, John Test.—3.

**ILLINOIS**—Daniel P. Cook.—1.  
**ALABAMA**—John McKee, Gabriel Moore, George W. Owen.—3.

**MISSOURI**—John Scott.—1.

#### Delegates.

**MICHIGAN TERRITORY**—Gabriel Richard.  
**ARKANSAS TERRITORY**—Henry W. Conway.  
**FLORIDA TERRITORY**—Richard K. Call.

NOTE—Whatever changes, if any, take place during the Session, will be found noted on the last page of the Appendix.

18th. CONGRESS, }  
2d SESSION.

*Message of the President, at the opening of the Session.* [Sen. and H. of R.]

## MESSAGE OF THE PRESIDENT,

TO BOTH HOUSES OF CONGRESS,

*At the commencement of the Second Session of the Eighteenth Congress.*

DECEMBER 7, 1824.

*Fellow-Citizens of the Senate,  
and of the House of Representatives:*

THE view which I have now to present to you, of our affairs, Foreign and Domestic, realizes the most sanguine anticipations which have been entertained of the public prosperity. If we look to the whole, our growth, as a Nation, continues to be rapid, beyond example; if to the States which compose it, the same gratifying spectacle is exhibited. Our expansion over the vast territory within our limits, has been great, without indicating any decline in those sections from which the emigration has been most conspicuous. We have daily gained strength by a native population in every quarter—a population devoted to our happy system of Government, and cherishing the bond of union with fraternal affection. Experience has already shewn, that the difference of climate, and of industry, proceeding from that cause, inseparable from such vast domains, and which, under other systems, might have a repulsive tendency, cannot fail to produce, with us, under wise regulations, the opposite effect. What one portion wants, the other may supply, and this will be most sensibly felt by the parts most distant from each other, forming, thereby, a domestic market, and an active intercourse between the extremes and throughout every portion of our Union. Thus, by a happy distribution of power between the National and State Governments, governments which rest exclusively on the sovereignty of the People, and are fully adequate to the great purposes for which they were respectively instituted, causes which might otherwise lead to dismemberment, operate powerfully to draw us closer together. In every other circumstance, a correct view of the actual state of our Union must be equally gratifying to our constituents. Our relations with foreign powers are of a friendly character, although certain interesting differences remain unsettled with some. Our revenue, under the mild system of impost and tonnage, continues to be adequate to all the purposes of the Government. Our agriculture, commerce, manufactures, and navigation, flourish. Our fortifications are advancing in the degree authorized by existing appropriations, to maturity, and due progress is made in the augmentation of the navy, to the limit prescribed for it by law. For these blessings, we owe to Almighty God, from whom we derive them, and with profound reverence, our most grateful and unceasing acknowledgments.

In adverting to our relations with foreign powers, which are always an object of the highest importance, I have to remark, that, of the subjects which have been brought into discussion with them during the present administration, some have been satisfactorily terminated; others have been suspended, to be resumed hereafter, under circumstances more favorable to success; and others are still in negotiation, with the hope that they may be adjusted, with mutual accommodation to the interests, and to the satisfaction, of the respective parties. It has been the invariable object of this Government, to cherish the most friendly relations with every power, and on principles and conditions which might make them permanent. A systematic effort has been made to place our commerce with each power on a footing of perfect

reciprocity; to settle with each, in a spirit of candor and liberality, all existing differences, and to anticipate and remove, so far as it might be practicable, all causes of future variance.

It having been stipulated by the seventh article of the convention of navigation and commerce, which was concluded on the twenty-fourth of June, one thousand eight hundred and twenty-two, between the United States and France, that the said convention should continue in force for two years, from the first of October of that year, and for an indefinite term afterwards, unless one of the parties should declare its intention to renounce it, in which event it should cease to operate at the end of six months from such declaration; and no such intention having been announced, the convention having been found advantageous to both parties, it has since remained, and still remains, in force. At the time when that convention was concluded, many interesting subjects were left unsettled, and particularly our claim to indemnity for spoiliations which were committed on our commerce in the late wars. For these interests and claims, it was in the contemplation of the parties, to make provision at a subsequent day, by a more comprehensive and definitive treaty. The object has been duly attended to since by the Executive; but, as yet, it has not been accomplished. It is hoped that a favorable opportunity will present itself for opening a negotiation, which may embrace and arrange all existing differences, and every other concern in which they have a common interest, upon the accession of the present king of France, an event which has occurred since the close of the last session of Congress.

With Great Britain our commercial intercourse rests on the same footing that it did at the last session. By the convention of one thousand eight hundred and fifteen, the commerce between the United States and the British dominions in Europe and the East Indies, was arranged on a principle of reciprocity. That convention was confirmed and continued in force, with slight exceptions, by a subsequent treaty, for the term of ten years, from the twentieth of October, one thousand eight hundred and eighteen, the date of the latter. The trade with the British colonies in the West Indies, has not, as yet, been arranged by treaty, or otherwise, to our satisfaction. An approach to that result has been made by legislative acts, whereby many serious impediments, which had been raised by the parties in defence of their respective claims, were removed. An earnest desire exists, and has been manifested on the part of this Government, to place the commerce with the colonies, likewise, on a footing of reciprocal advantage; and it is hoped that the British Government, seeing the justice of the proposal, and its importance to the colonies, will, ere long, accede to it.

The Commissioners who were appointed for the adjustment of the boundary, between the territories of the United States and those of Great Britain, specified in the fifth article of the Treaty of Ghent, having disagreed in their decision, and both governments having agreed to establish that boundary by amicable negotiation between them, it is hoped that it may be satisfactorily adjusted in that mode. The boundary specified by the sixth article has been established by the decision of the commissioners. From the progress made in that provided for by the seventh, according to a report recently received, there is good cause to presume that it will be settled in the course of the ensuing year.

It is a cause of serious regret that no arrangement has yet been finally concluded between the two governments, to secure, by joint co-operation, the suppression of the slave trade. It was the object of the British government, in the early stages of the negotiation, to adopt a plan for the suppression, which should include the concession of the mutual right of search by the ships of war

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of each party, of the vessels of the other, for suspected offenders. This was objected to by this government, on the principle, that, as the right of search was a right of war of a belligerent towards a neutral power, it might have an ill effect to extend it by treaty to an offence which had been made comparatively mild. To a time of peace. Anxious, however, for the suppression of this trade, it was thought advisable, in compliance with a resolution of the House of Representatives, founded on an act of Congress, to propose to the British Government an expedient which should be free from that objection, and more effectual for the object, by making it piratical. In that mode the enormity of the crime would place the offenders out of the protection of their government, and involve no question of search, or other question between the parties, touching their respective rights. It was believed, also, that it would completely suppress the trade in the vessels of both parties, and by their respective citizens and subjects in those of other powers with whom it was hoped that the odium which would thereby be attached to it, would produce a corresponding arrangement, and, by means thereof, its entire extirpation for ever. A convention to this effect was concluded and signed in London on the 13th day of March, by plenipotentiaries duly authorized by both governments, to the ratification of which certain obstacles have arisen which are not yet entirely removed. The difference between the parties still remaining, has been reduced to a point, not of sufficient magnitude, as is presumed, to be permitted to defeat an object so near to the heart of both nations, and so desirable to the friends of humanity throughout the world. As objections, however, to the principle recommended by the House of Representatives, or at least to the consequences inseparable from it, and which are understood to apply to the law, have been raised, which may deserve a reconsideration of the whole subject, I have thought it proper to suspend the conclusion of a new convention until the definitive sentiments of Congress may be ascertained. The documents relating to the negotiation, are, with that intent, submitted to your consideration.

Our commerce with Sweden has been placed on a footing of perfect reciprocity by treaty, and, with Russia, the Netherlands, Prussia, the free Hanseatic Cities, the Dukedom of Oldenburgh, and Sardinia, by internal regulations on each side, founded on mutual agreement between the respective Governments.

The principles upon which the commercial policy of the United States is founded, are to be traced to an early period. They are essentially connected with those upon which their independence was declared, and owe their origin to the enlightened men who took the lead in our affairs at that important epoch. They are developed in their first treaty of commerce with France of sixth February, one thousand seven hundred and seventy-eight, and by a formal commission, which was instituted immediately after the conclusion of their Revolutionary struggle, for the purpose of negotiating treaties of commerce with every European power. The first treaty of the United States with Prussia, which was negotiated by that commission, affords a signal illustration of those principles. The act of Congress of the third March, one thousand eight hundred and fifteen, adopted immediately after the return of a general peace, was a new overture to foreign nations to establish our commercial relations with them on the basis of free and equal reciprocity. That principle has pervaded all the acts of Congress, and all the negotiations of the Executive on the subject since.

A convention for the settlement of important questions in relation to the Northwest Coast of this Continent, and its adjoining seas, was concluded and signed at St. Petersburg on the fifth day of April last, by the Minister Plenipotentiary of the United States, and Plenipotentiaries of the Imperial Government of Russia. It

will immediately be laid before the Senate for the exercise of the constitutional authority of that body, with reference to its ratification. It is proper to add, that the manner in which this negotiation was invited and conducted on the part of the Emperor, has been very satisfactory.

The great and extraordinary changes which have happened in the government of Spain and Portugal, within the last two years, without seriously affecting the friendly relations which, under all of them, have been maintained with those powers by the United States, have been obstacles to the adjustment of the particular subjects of discussion which have arisen with each. A resolution of the Senate, adopted at their last session, called for information as to the effect produced upon our relations with Spain, by the recognition, on the part of the United States, of the Independent South American Governments. The papers containing that information are now communicated to Congress.

A Charge d'Affaires has been received from the Independent Government of Brazil. That country, heretofore a colonial possession of Portugal, had, some years since, been proclaimed by the Sovereign of Portugal himself, an independent kingdom. Since his return to Lisbon a revolution in Brazil has established a new government there, with an Imperial title, at the head of which is placed the Prince in whom the Regency had been vested by the King, at the time of his departure. There is reason to expect that, by amicable negotiation, the independence of Brazil will, ere long, be recognized by Portugal herself.

With the remaining Powers of Europe, with those on the coast of Barbary, and with all the new South American States, our relations are of a friendly character. We have Ministers Plenipotentiary residing with the Republics of Colombia and Chili, and have received Ministers, of the same rank, from Colombia, Guatemala, Buenos Ayres, and Mexico. Our commercial relations with all those States, are mutually beneficial and increasing. With the Republic of Colombia, a Treaty of Commerce has been formed, of which a copy is received, and the original daily expected. A negotiation for a like Treaty would have been commenced with Buenos Ayres, had it not been prevented by the indisposition, and lamented decease, of Mr. Rodney, our Minister there, and to whose memory the most respectful attention has been shewn by the Government of that Republic. An advantageous alteration in our Treaty with Tunis has been obtained by our Consular-Agent residing there, the official document of which, when received, will be laid before the Senate.

The attention of the Government has been drawn with great solicitude to other subjects, and particularly to that relating to a state of maritime war, involving the relative rights of neutral and belligerent in such wars. Most of the difficulties which we have experienced, and of the losses which we have sustained, since the establishment of our independence, have proceeded from the unsettled state of those rights, and the extent to which the belligerent claim has been carried against the neutral party. It is impossible to look back on the occurrences of the late wars in Europe, and to behold the disregard which was paid to our rights as a neutral power, and the waste which was made of our Commerce by the parties to those wars, by various acts of their respective Governments, and under the pretext, by each, that the other had set the example, without great mortification, and a fixed purpose never to submit to the like in future. An attempt to remove those causes of possible variance by friendly negotiation, and on just principles, which should be applicable to all parties, could, it was presumed, be viewed by none other than as a proof of an earnest desire to preserve those relations with every power. In the late war between France and Spain, a crisis occurred, in which it seemed proba-

# APPENDIX—To *Gales & Seaton's Register.*

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ple that all the controvertible principles, involved in such wars, might be brought into discussion, and settled to the satisfaction of all parties. Propositions, having this object in view, have been made to the Governments of Great Britain, France, Russia, and of other Powers, which have been received in a friendly manner by all, but as yet no treaty has been formed with either for its accomplishment. The policy will it is presumed, be persevered in; and in the hope that it may be successful.

It will always be recollected that with one of the parties to those wars, and from whom we received those injuries, we sought redress by war. From the other, by whose then reigning Government our vessels were seized in port as well as at sea, and their cargoes confiscated, indemnity has been expected, but has not yet been rendered. It was under the influence of the latter, that our vessels were likewise seized by the Governments of Spain, Holland, Denmark, Sweden and Naples, and from whom indemnity has been claimed and is still expected; with the exception of Spain, by whom it has been rendered. With both parties we had abundant cause of war, but we had no alternative but to resist that which was most powerful at sea, and pressed us nearest at home. With this all differences were settled by a treaty founded on conditions fair and honorable to both, and which has been so far executed with perfect good faith. It has been earnestly hoped, that the other would, of its own accord, and from a sentiment of justice and conciliation, make to our citizens the indemnity to which they are entitled, and thereby remove from our relations any just cause of discontent on our side.

It is estimated that the receipts into the Treasury during the current year, exclusive of loans, will exceed eighteen million five hundred thousand dollars, which with the sum remaining in the Treasury at the end of the last year, amounting to nine million four hundred sixty-three thousand nine hundred twenty-two dollars eighty-one cents, will, after discharging the current disbursements of the year, the interest on the public debt, and eleven million six hundred and thirty-three thousand dollars fifty-two cents of the principal, leave a balance of more than three million dollars in the Treasury on the first day of January next.

A larger amount of the debt contracted during the late war, bearing an interest of six per cent. becoming redeemable in the course of the ensuing year, than could be discharged by the ordinary revenue, the act of the twenty-sixth of May, authorized a loan of five million dollars, at four and a half per cent. to meet the same. By this arrangement an annual saving will accrue to the public of seventy-five thousand dollars.

Under the act, of the twenty-fourth of May last, a loan of five millions dollars was authorized, in order to meet the awards, under the Florida Treaty, which was negotiated at par, with the Bank of the United States, at four and a half per cent. the limit of interest fixed by the act. By this provision the claims of our citizens, who had sustained so great a loss by spoiliations, and from whom indemnity had been so long withheld, were promptly paid. For these advances, the public will be amply repaid, at no distant day, by the sale of the lands in Florida. Of the great advantages resulting from the acquisition of the territory in other respects, too high an estimate cannot be formed.

It is estimated that the receipts into the Treasury, during the year one thousand eight hundred and twenty-five, will be sufficient to meet the disbursements of the year, including the sum of ten million dollars, which is annually appropriated by the act, constituting the Sinking Fund, to the payment of the principal and interest of the public debt.

The whole amount of the public debt on the first of January next, may be estimated at eighty-six million dollars, inclusive of two millions five hundred thousand

dollars of the loan authorised by the act of the twenty-sixth of May last. In this estimate is included a stock of seven million dollars, issued for the purchase of that amount of the capital stock of the Bank of the United States; and which, as the stock of the Bank, still held by the Government, will at least be fully equal to its reimbursement, ought not to be considered as constituting a part of the public debt. Estimating, then, the whole amount of the public debt at seventy-nine million dollars, and regarding the annual receipts and expenditures of the Government; a well-founded hope may be entertained, that should no unexpected event occur, the whole of the public debt may be discharged in the course of ten years, and the Government be left at liberty thereafter, to apply such portion of the revenue as may not be necessary for current expenses, to such other objects as may be most conducive to the public security and welfare. That the sum applicable to these objects, will be very considerable, may be fairly concluded; when it is recollected, that a large amount of the public revenue has been applied since the late war, to the construction of the public buildings in this city; to the erection of fortifications along the coast, and of arsenals in different parts of the Union; to the augmentation of the navy; to the extinguishment of the Indian title to large tracts of fertile territory; to the acquisition of Florida; to pensions to revolutionary officers and soldiers, and to invalids of the late war. On many of these objects the expense will annually diminish, and cease at no distant period on most or all. On the first of January, one thousand eight hundred and seventeen, the public debt amounted to one hundred and twenty-three million four hundred and ninety-one thousand nine hundred and sixty-five dollars and sixteen cents; and notwithstanding the large sums which have been applied to these objects, it has been reduced since that period, thirty-seven million four hundred and forty-six thousand nine hundred and sixty-one dollars, and seventy-eight cents. The last portion of the public debt will be redeemable on the first of January one thousand eight hundred and thirty-five; and while there is the best reason to believe, that the resources of the Government will be continually adequate to such portions of it as may become due in the interval, it is recommended to Congress to seize every opportunity, which may present itself, to reduce the rate of interest on every part thereof. The high state of the public credit, and the great abundance of money, are at this time very favorable to such a result. It must be very gratifying to our fellow-citizens, to witness this flourishing state of the public finances, when it is recollected, that no burthen whatever has been imposed upon them.

The Military Establishment, in all its branches, in the performance of the various duties assigned to each, justifies the favourable view which was presented, of the efficiency of its organization, at the last session. All the appropriations have been regularly applied to the objects intended by Congress; and, so far as the disbursements have been made, the accounts have been rendered and settled, without loss to the public. The condition of the Army itself, as relates to the officers and men, in science, and discipline, is highly respectable. The Military Academy, on which the Army essentially rests, and to which it is much indebted for this state of improvement, has attained, in comparison with any other institution of a like kind, a high degree of perfection. Experience, however, has shewn, that the dispersed condition of the Corps of Artillery is unfavourable to the discipline of that important branch of the Military Establishment. To remedy this inconvenience, eleven companies have been assembled at the Fortification erected at Old Point Comfort, as a school for Artillery instruction, with intention, as they shall be perfected in the various duties of that service, to order them to other posts, and to supply their places with other companies.



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for instruction in like manner. In this mode, a complete knowledge of the science and duties of this arm, will be extended throughout the whole Corps of Artillery. But, to carry this object fully into effect, will require the aid of Congress: to obtain which, the subject is now submitted to your consideration.

Of the progress which has been made in the construction of Fortifications, for the permanent defence of our maritime frontier, according to the plan decided on, and to the extent of the existing appropriations, the Report of the Secretary of War, which is herewith communicated, will give a detailed account. Their final completion cannot fail to give great additional security to that frontier, and to diminish, proportionably, the expense of defending it in the event of war.

The provisions in the several acts of Congress, of the last session, for the improvement of the navigation of the Mississippi and the Ohio, of the Harbour of Presqu'isle, on Lake Erie, and the repair of the Plymouth Beach, are in a course of regular execution; and, there is reason to believe, that the appropriation, in each instance, will be adequate to the object. To carry these improvements fully into effect, the superintendence of them has been assigned to officers of the Corps of Engineers.

Under the act of 30th April last, authorizing the President to cause a survey to be made, with the necessary plans and estimates, of such roads and canals, as he might deem of national importance, in a commercial or military point of view, or for the transportation of the mail, a Board has been instituted, consisting of two distinguished officers of the Corps of Engineers, and a distinguished Civil Engineer, with assistants, who have been actively employed in carrying into effect the object of the act. They have carefully examined the route between the Potomac and the Ohio rivers; between the latter and Lake Erie: between the Alleghany and the Susquehanna; and the routes between the Delaware and the Rariton, Barnstable and Buzzard's Bay, and between Boston Harbour and Narraganset Bay. Such portion of the corps of Topographical Engineers as could be spared from the survey of the coast, has been employed in surveying the very important route between the Potomac and the Ohio. Considerable progress has been made in it, but the survey cannot be completed until the next season. It is gratifying to add, from the view already taken, that there is good cause to believe, that this great national object may be fully accomplished.

It is contemplated to commence early in the next season, the execution of the other branch of the act, that which relates to roads, and with the survey of a route from this city, through the southern states, to New Orleans, the importance of which cannot be too highly estimated. All the officers of both the corps of Engineers, who could be spared from other services, have been employed in exploring and surveying the routes for canals. To digest a plan for both objects, for the great purposes specified, will require a thorough knowledge of every part of our Union, and of the relation of each part to the others, and of all to the seat of the General Government. For such a digest it will be necessary that the information be full, minute, and precise. With a view to these important objects, I submit to the consideration of Congress the propriety of enlarging both the corps of Engineers, the military and topographical. It need scarcely be remarked that the more extensively these corps are engaged in the improvement of their country, in the execution of the powers of Congress, and in aid of the states in such improvements as lie beyond that limit, when such aid is desired, the happier the effect will be in many views of which the subject is susceptible. By profiting of their science, the works will always be well executed; and, by giving to the officers such employment, our Union will derive all the advantage in peace as well as in war, from their talents and services, which they can afford. In this mode, also, the

military will be incorporated with the civil, and unfounded and injurious distinctions and prejudices, of every kind, be done away. To the corps themselves, this service cannot fail to be equally useful, since, by the knowledge they would thus acquire, they would be eminently better qualified, in the event of war, for the great purposes for which they were instituted.

Our relations with the Indian tribes within our limits, have not been materially changed during the year. The hostile disposition evinced by certain tribes on the Missouri during the last year, still continues, and has extended, in some degree, to those on the Upper Mississippi and the upper Lakes. Several parties of our citizens have been plundered and murdered by those tribes. In order to establish relations of friendship with them, Congress, at the last session, made an appropriation for treaties with them, and for the employment of a suitable military escort to accompany and attend the Commissioners at the places appointed for the negotiations. This object has not been effected. The season was too far advanced when the appropriation was made, and the distance too great to permit it, but measures have been taken, and all the preparations will be completed, to accomplish it at an early period in the next season.

Believing that the hostility of the Tribes, particularly on the upper Mississippi, and the Lakes, is in no small degree owing to the wars which are carried on between the Tribes residing in that quarter, measures have been taken to bring about a general peace among them, which, if successful, will not only tend to the security of our citizens, but be of great advantage to the Indians themselves.

With the exception of the Tribes referred to, our relations with all the others are on the same friendly footing, and it affords me great satisfaction to add, that they are making steady advances in civilization, and the improvement of their condition. Many of the Tribes have already made great progress in the arts of civilized life. This desirable result has been brought about by the humane and persevering policy of the Government, and particularly by means of the appropriation for the civilization of the Indians. There have been established, under the provisions of this act, thirty-two schools, containing nine hundred and sixteen scholars, who are well instructed in several branches of literature, and likewise in agriculture, and the ordinary arts of life.

Under the appropriation to authorize treaties with the Creeks, and Quapaw Indians, commissioners have been appointed, and negotiations are now pending, but the result is not yet known.

For more full information respecting the principle which has been adopted for carrying into effect the act of Congress authorizing surveys, with plans and estimates, for canals and roads, and on every other branch of duty incident to the Department of War, I refer you to the Report of the Secretary.

The squadron in the Mediterranean has been maintained in the extent which was proposed in the Report of the Secretary of the Navy of the last year, and has afforded to our commerce the necessary protection in that sea. Apprehending, however, that the unfriendly relations which have existed between Algiers and some of the powers of Europe, might be extended to us, it has been thought expedient to augment the force there, and, in consequence, the "North Carolina," a ship of the line, has been prepared, and will sail in a few days to join it.

The force employed in the Gulf of Mexico, and in the neighboring seas, for the suppression of Piracy, has likewise been preserved essentially in the state in which it was during the last year. A persevering effort has been made for the accomplishment of that object, and much protection has thereby been afforded to our commerce, but still the practice is far from being suppressed. From every view which has been taken of the sub-

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ect, it is thought that it will be necessary rather to augment than to diminish our force in that quarter. There is reason to believe that the piracies now complained of, are committed by bands of robbers who inhabit the land, and who, by preserving good intelligence with the towns, and seizing favorable opportunities, rush forth and fall on unprotected merchant vessels, of which they make an easy prey. The pillage thus taken, they carry to their lurking places, and dispose of afterwards, at prices tending to seduce the neighboring population. This combination is understood to be of great extent; and is the more to be deprecated, because the crime of piracy is often attended with the murder of the crews, these robbers knowing, if any survived, their lurking places would be exposed, and they be caught and punished. That this atrocious practice should be carried to such extent, is cause of equal surprize and regret. It is presumed that it must be attributed to the relaxed and feeble state of the local Governments, since it is not doubted, from the high character of the Governor of Cuba, who is well known and much respected here, that if he had the power, he would promptly suppress it. Whether those robbers should be pursued on the land, the local authorities be made responsible for these atrocities, or any other measure be resorted to, to suppress them, is submitted to the consideration of Congress.

In execution of the laws for the suppression of the slave trade, a vessel has been occasionally sent from that squadron to the coast of Africa, with orders to return thence by the usual track of the slave ships, and to seize any of our vessels which might be engaged in that trade. None have been found, and, it is believed, that none are thus employed. It is well known, however, that the trade still exists under other flags.

The health of our squadron while at Thompson's Island, has been much better during the present, than it was the last season. Some improvements have been made, and others are contemplated there, which, it is believed, will have a very salutary effect.

On the Pacific, our commerce has much increased, and on that coast, as well as on that sea, the United States have many important interests which require attention and protection. It is thought that all the considerations which suggested the expediency of placing a squadron on that sea, operate with augmented force, for maintaining it there at least in an equal extent.

For detailed information respecting the state of our maritime force, on each sea, the improvement necessary to be made on either, in the organization of the Naval Establishment, generally, and of the laws for its better government, I refer you to the Report of the Secretary of the Navy, which is herewith communicated.

The revenue of the Post Office Department has received a considerable augmentation in the present year. The current receipts will exceed the expenditures, although the transportation of the mail, within the year, has been much increased. A Report of the Postmaster General, which is transmitted, will furnish, in detail, the necessary information respecting the administration and present state of this Department.

In conformity with a resolution of Congress, of the last Session, an invitation was given to General Lafayette to visit the United States, with an assurance that a ship of war should attend at any port of France which he might designate, to receive and convey him across the Atlantic, whenever it might be convenient for him to sail. He declined the offer of the public ship, from motives of delicacy, but assured me that he had long intended, and would certainly visit our Union, in the course of the present year. In August last, he arrived at New York, where he was received with the warmth of affection and gratitude to which his very important and disinterested services and sacrifices, in our Revolutionary struggle, so eminently entitled him. A corresponding sentiment has since been manifested, in

his favor, throughout every portion of our Union, and affectionate invitations have been given him to extend his visits to them. To these he has yielded all the accommodation in his power. At every designated point of rendezvous, the whole population of the neighboring country has been assembled to greet him, among whom it has excited, in a peculiar manner, the sensibility of all, to behold the surviving members of our Revolutionary contest, civil and military, who had shared with him in the toils and dangers of the war, many of them in a decrepid state. A more interesting spectacle, it is believed, was never witnessed, because none could be founded on purer principles—none proceed from higher or more disinterested motives. That the feelings of those who had fought and bled with him, in a common cause, should have been much excited, was natural. There are, however, circumstances attending these interviews, which pervaded the whole community, and touched the breasts of every age, even the youngest among us. There was not an individual present who had not some relative who had not partaken in those scenes, nor an infant who had not heard the relation of them. But the circumstance which was most sensibly felt, and which his presence brought forcibly to the recollection of all, was the great cause in which we were engaged, and the blessings which we have derived from our success in it. The struggle was for independence and liberty, public and personal, and in this we succeeded. The meeting with one who had borne so distinguished a part in that great struggle, and from such lofty and disinterested motives, could not fail to affect, profoundly, every individual, and of every age. It is natural that we should all take a deep interest in his future welfare, as we do. His high claims on our Union are felt, and the sentiment universal, that they should be met in a generous spirit. Under these impressions, I invite your attention to the subject, with a view that, regarding his very important services, losses, and sacrifices, a provision may be made, and tendered to him, which shall correspond with the sentiments, and be worthy the character, of the American people.

In turning our attention to the condition of the civilized world, in which the United States have always taken a deep interest, it is gratifying to see how large a portion of it is blessed with peace. The only wars which now exist within that limit, are those between Turkey and Greece, in Europe, and between Spain and the new Governments, our neighbors, in this hemisphere. In both these wars, the cause of independence, of liberty, and humanity, continues to prevail. The success of Greece, when the relative population of the contending parties is considered, commands our admiration and applause, and that it has had a similar effect with the neighboring Powers, is obvious. The feeling of the whole civilized world is excited, in a high degree, in their favor. May we not hope that these sentiments, winning on the hearts of their respective Governments, may lead to a more decisive result? that they may produce an accord among them, to replace Greece on the ground which she formerly held, and to which her heroic exertions, at this day, so eminently entitle her?

With respect to the contest, to which our neighbours are a party, it is evident that Spain, as a power, is scarcely felt in it. These new states had completely achieved their independence, before it was acknowledged by the United States, and they have since maintained it, with little foreign pressure. The disturbances which have appeared in certain portions of that vast territory, have proceeded from internal causes, which had their origin in their former governments, and have not yet been thoroughly removed. It is manifest that these causes are daily losing their effect, and that these new states are settling down under governments elective and representative in every branch, similar to our own. In this course we ardently wish them to persevere, under a firm conviction that it will promote their happiness. In

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this their career, however, we have not interfered, believing that every people have a right to institute for themselves the government, which, in their judgment, may suit them best. Our example is before them, of the good effect of which, being our neighbours, they are competent judges, and to their judgment we leave it, in the expectation that other powers will pursue the same policy. The deep interest which we take in their independence which we have acknowledged, and in their enjoyment of all the rights incident thereto, especially in the very important one of instituting their own governments, has been declared, and is known to the world. Separated, as we are from Europe by the great Atlantic ocean, we can have no concern in the wars of the European Governments, nor in the causes which produce them. The balance of power between them, into which ever scale it may turn in its various vibrations, cannot affect us. It is the interest of the United States to preserve the most friendly relations with every power, and on conditions fair, equal, and applicable to all. But, in regard to our neighbours our situation is different. It is impossible for the European Governments to interfere in their concerns, especially in those alluded to, which are vital, without affecting us; indeed the motive which might induce such interference in the present state of the war between the parties, if a war it may be called, would appear to be equally applicable to us. It is gratifying to know that some of the powers with whom we enjoy a very friendly intercourse, and to whom these views have been communicated, have appeared to acquiesce in them.

The augmentation of our population, with the expansion of our Union, and increased number of states, have produced effects in certain branches of our system, which merit the attention of Congress. Some of our arrangements, and particularly the Judiciary Establishment, were made with a view to the original thirteen states only. Since then the United States have acquired a vast extent of territory; eleven new states have been admitted into the Union, and territories have been laid off for three others, which will likewise be admitted at no distant day. An organization of the Supreme Court, which assigns to the Judges any portion of the duties which belong to the inferior, requiring their passage over so vast a space, under any distribution of the states that may now be made, if not impracticable in the execution, must render it impossible for them to discharge the duties of either branch with advantage to the Union. The duties of the Supreme Court would be of great importance, if its decisions were confined to the ordinary limits of other tribunals; but when it is considered that this court decides, and in the last resort, on all the great questions which arise under our Constitution, involving those between the United States, individually, between the states and the United States, and between the latter and foreign powers, too high an estimate of their importance cannot be formed. The great interests of the nation seem to require, that the Judges of the Supreme Court should be exempted from every other duty, than those which are incident to that high trust. The organization of the inferior courts would, of course, be adapted to circumstances. It is presumed that such an one might be formed, as would secure an able and faithful discharge of their duties, and without any material augmentation of expense.

The condition of the Aborigines within our limits, and especially those who are within the limits of any of the states, merits likewise particular attention. Experience has shown, that, unless the tribes be civilized, they can never be incorporated into our system, in any form whatever. It has likewise shown, that, in the regular augmentation of our population, with the extension of our settlements, their situation will become deplorable, if their extinction is not menaced. Some well digested plan, which will rescue them from such calamities, is due to their rights, to the rights of humanity, and to the

honor of the nation. Their civilization is indispensable to their safety; and this can be accomplished only by degrees. The process must commence with the infant state, through whom some effect may be wrought on the parental. Difficulties of the most serious character present themselves to the attainment of this very desirable result, on the territory on which they now reside. To remove them from it by force, even with a view to their own security and happiness, would be revolting to humanity, and utterly unjustifiable. Between the limits of our present States and territories, and the Rocky Mountain and Mexico, there is a vast territory, to which they might be invited, with inducements, which might be successful. It is thought if that Territory should be divided into Districts, by previous agreement with the tribes now resident there, and civil Governments be established in each, with schools, for every branch of instruction in literature, and the arts of civilized life, that all the tribes now within our limits might gradually be drawn there. The execution of this plan would necessarily be attended with expense, and that not inconsiderable, but it is doubted whether any other can be devised which would be less liable to that objection, or more likely to succeed.

In looking to the interests which the United States have on the Pacific Ocean, and on the western coast of this Continent, the propriety of establishing a military post at the mouth of Columbia river, or at some other point in that quarter, within our acknowledged limits, is submitted to the consideration of Congress. Our commerce and fisheries on that sea, and along the coast, have much increased, and are increasing. It is thought that a military post, to which our ships of war might resort, would afford protection to every interest, and have a tendency to conciliate the tribes to the north-west, with whom our trade is extensive. It is thought, also, that, by the establishment of such a post, the intercourse between our western states and territories, and the Pacific, and our trade with the tribes residing in the interior, on each side of the Rocky Mountain, would be essentially promoted. To carry this object into effect, the appropriation of an adequate sum to authorize the employment of a frigate, with an officer of the corps of engineers, to explore the mouth of the Columbia river, and the coast contiguous thereto, to enable the Executive to make such establishment at the most suitable point, is recommended to Congress.

It is thought that attention is also due to the improvement of this city. The communication between the public buildings, and in various other parts, and the grounds around those buildings, require it. It is presumed also, that the completion of the canal, from the Tiber to the Eastern Branch, would have a very salutary effect. Great exertions have been made, and expenses incurred, by the citizens, in improvements of various kinds; but those which are suggested, belong exclusively to the Government, or are of a nature to require expenditures beyond their resources. The public lots which are still for sale, would, it is not doubted, be more than adequate to these purposes.

From the view above presented, it is manifest, that the situation of the United States is, in the highest degree, prosperous and happy. There is no object which, as a people, we can desire, which we do not possess, or which is not within our reach. Blessed with governments the happiest which the world ever knew, with no distinct orders in society, or divided interests in the vast territory over which their dominion extends, we have every motive to cling together, which can animate a virtuous and enlightened people. The great object is to preserve those blessings, and to hand them down to the latest posterity. Our experience ought to satisfy us, that our progress, under the most correct and provident policy, will not be exempt from danger. Our institutions form an important epoch in the history of the civilized world.

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On their preservation, and in their utmost purity, every thing will depend. Extending, as our interests do, to every part of the inhabited globe, and to every sea, to which our citizens are carried by their industry and enterprise, to which they are invited by the wants of others, and have a right to go, we must either protect them in the enjoyment of their rights, or abandon them, in certain events, to waste and desolation. Our attitude is highly interesting as relates to other powers, and particularly to our southern neighbors. We have duties to perform with respect to all, to which we must be faithful. To every kind of danger we should pay the most vigilant and unceasing attention; remove the cause when practicable; and be prepared to meet it when inevitable.

Against foreign danger, the policy of the Government seems to be already settled. The events of the late war admonished us to make our maritime frontier impregnable, by a well digested chain of fortifications, and to give efficient protection to our commerce, by augmenting our Navy to a certain extent; which has been steadily pursued, and which it is incumbent upon us to complete, as soon as circumstances will permit. In the event of war, it is on the maritime frontier that we shall be assailed. It is in that quarter, therefore, that we should be prepared to meet the attack. It is there that our whole force will be called into action, to prevent the destruction of our towns, and the desolation and pillage of the interior. To give full effect to this policy, great improvements will be indispensable. Access to those works, by every practicable communication, should be made easy, and in every direction. The intercourse, also, between every part of our Union, should also be promoted, and facilitated by the exercise of those powers, which may comport with a faithful regard to the great principles of our Constitution. With respect to internal causes, those great principles point out, with equal certainty, the policy to be pursued. Resting on the people, as our Governments do, State and National, with well defined powers, it is of the highest importance, that they, severally, keep within the limits prescribed to them. Fulfilling that sacred duty, it is of equal importance, the movement between them be harmonious; and in case of any disagreement, should such occur, that a calm appeal be made to the people; and that their voice be heard, and promptly obeyed. Both Governments being instituted for the common good, they cannot fail to prosper, while those who made them are attentive to the conduct of their representatives, and control their measures. In the pursuit of these great objects, let a generous spirit, and national views and feelings be indulged; and let every part recollect, that, by cherishing that spirit, and improving the condition of the others, in what relates to their welfare, the general interest will not only be promoted, but the local advantage reciprocated, by all.

I cannot conclude this communication, the last of the kind which I shall have to make, without recollecting, with great sensibility and heartfelt gratitude, the many instances of the public confidence, and the generous support which I have received from my fellow-citizens in the various trusts with which I have been honored. Having commenced my service in early youth, and continued it since with few and short intervals, I have witnessed the great difficulties to which our Union has been exposed, and admired the virtue and courage with which they were surmounted. From the present prosperous and happy state, I derive a gratification which I cannot express. That these blessings may be preserved and perpetuated, will be the object of my fervent and unceasing prayers to the Supreme Ruler of the Universe.

JAMES MONROE.

Washington, December 7, 1824.

## DOCUMENTS

### Accompanying the preceding Message.

*Message from the President of the United States, transmitting a Convention between the United States and Great Britain, for the Suppression of the Slave Trade.*

IN SENATE, Friday, April 30, 1824.

The following written message was received from the President of the United States, by Mr. Everett, his Secretary:

*To the Senate of the United States:*

I transmit to the Senate, for their constitutional advice, with regard to its ratification, a convention for the Suppression of the African Slave Trade, signed at London, on the 13th ult. by the Minister of the United States residing there, on their part, with the Plenipotentiaries of the British Government, on the part of that nation; together with the correspondence relating thereto, part of which is included in a communication made to the House of Representatives on the 19th ultimo, a printed copy of which is among the documents herewith sent.

Motives of accommodation to the wishes of the British Government, render it desirable that the Senate should act definitively upon this convention, as speedily as may be found convenient.

JAMES MONROE.

Washington, April 30, 1824.

(No. 1.)

Mr. Rush to Mr. Adams.

LOXNOR, January 23, 1824.

SIR: I received, on the evening of the 20th instant, a note from Mr. Secretary Canning, requesting me to call, on the following day, at the Foreign Office, for the purpose of meeting there Mr. Huskisson and Mr. Stratford Canning, by which I at once understood that the negotiation which the President has confided to me, was now about to have its regular commencement. I went at the time appointed, when, meeting these gentlemen, I was informed by them that their instructions, as well as full powers, as the Plenipotentiaries of this Government, were made out, and that all things were ready, on their side, for opening the negotiation. I replied, that I too was ready on the part of the United States, upon which the 23d was fixed upon for our first meeting.

The negotiation has accordingly been opened this day, in due form, at the office of the Board of Trade. At the wish of Mr. Secretary Canning, specially expressed at the Foreign Office the day before yesterday, the subject of the slave trade is that upon which we have first entered. Our introductory conferences upon it, occupied a couple of hours, when an adjournment took place until Thursday next, the 29th instant. It was agreed that the same subject should then be resumed; and, without discussing others, proceeded with until it should be finished. In making my reports to you of this negotiation, for the information of the President, my intention is not to make them from meeting to meeting, a course that might often prove unsatisfactory and unavailing, but to wait the issue of the whole, or, at any rate, the completion of some one object, before I proceed to write about it. This was the plan pursued at the joint negotiation with this court in 1818, in which I bore a share, and I hope will be approved. I will take care to deviate from it whenever circumstances may seem to render a deviation necessary and proper; as, moreover, I must, simultaneously with this negotiation, attend to the business of the legation, it has occurred to me that, as often as I may find it necessary to write to you respecting the latter, whilst the negotiation is in progress, I will go on with the regular series in numbering my despatches.

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es, treating those that I shall write on the negotiation, as distinct, and so numbering them. I cannot flatter myself with the expectation that the work of the negotiation will be very soon done. The subjects are many and complicated; the session of Parliament is at hand, and will, when it arrives, make heavy calls upon the time of one of the British Plenipotentiaries; added to which, the daily interruptions to which my own time is liable, always the lot of the permanent incumbent of this mission, will be too liable to increase the unavoidable obstacles to frequent and rapid conferences. I can only repeat, that my best endeavors shall not be spared, and I presume to hope, that my past conduct in this trust will be accepted as the pledge of my future diligence.

Although there have been delays in bringing on the negotiation, all my preliminary correspondence in relation to it, will, I trust, have sufficiently shewn that they have not arisen through my instrumentality. The standing of one of the British Plenipotentiaries is so well known to us that I need not speak of it. The other, Mr. Huskisson, (first named in the commission,) is of the Cabinet, a distinguished member of the House of Commons, the President of the Board of Trade, and Treasurer of the Navy. Besides his reputation for talents, which is high, he seems to be no less generally regarded as a man of liberal principles and conciliating temper.

I have the honor to remain,

With very great respect,

Your obedient servant,

RICHARD RUSH.

(No. 2.)

*Mr. Rush to Mr. Adams.*

LONDON, March 15, 1824.

SIR: I have the honor to inform you, that I concluded and signed on behalf of the United States, the day before yesterday, a convention with this Government, for the suppression of the slave trade, which instrument I herewith transmit to your hands, to be laid before the President.

In my despatch, No. 335, written previously to the commencement of the negotiation, I mentioned that Mr. Secretary Canning had expressed a wish that the subject of the slave trade should be treated separately from all others on which I had received the instructions of my Government, and that I had not thought it necessary to object to this course. In pursuance of it, this subject was accordingly taken up separately, and was the first upon which we entered, as you have already been informed, in my despatch which announced the formal opening of the negotiation.

The only deviation from the course indicated in my latter despatch, has been, that other subjects have since been gone into, though none, as yet, finished, a mode of proceeding that was found eligible.

With the convention I also transmit the protocols of the several conferences at which its provisions were discussed and settled, and for the better understanding of the whole subject, I proceed to give you a more full account of the nature and progress of the discussions than can be afforded by the protocols.

I offered, in the first instance, to the British Plenipotentiaries, and without any alteration, the project that came inclosed to me in your despatch, No. 65, of the 24th of June, explaining and recommending its provisions by such considerations as were to be drawn from your despatch, and others that seemed apposite. They remarked, that they hoped it would be borne in mind, that the plan offered was not of the choice of Great Britain, her preference having been distinctly made known to Europe, as well as the United States, for a different plan; nor was it, they said, necessary towards the more effectual abolition of the traffic by her own subjects, her home statutes and prohibitions being already adequate to that end. As re-

garded the latter intimation, I replied, that the United States stood upon at least equal ground with Great Britain; their existing laws against the slave trade being marked by even a higher tone of severity, and the consequent exclusion of their citizens from all participation in the trade, being, as was believed, so far as the virtue of municipal laws could avail, not less effectual. As to the preference of Great Britain for a different plan, I contented myself with alluding, with more of retrospect, to the uniform objections that had been made to it by the leading powers of Europe, especially by France and Russia, as well as by the United States; and with remarking, that my Government had charged me with the duty of presenting the project in question, under the twofold view of bringing forward, according to the wish of Great Britain, a substitute for the plan that had been rejected, and to carry into effect a resolution which had passed the House of Representatives of the United States upon this subject, at the close of the last session of Congress.

I added, that it was the sincere belief of my Government, rendering, at the same time, full justice to all the past efforts of Great Britain, in the cause of abolition, that if she could see her way to the acceptance of the plan now offered, combining, as it did, the great principle of denouncing the slave trade as piracy, with a system of international co-operation for its suppression, the evil would be more effectually extirpated, and at a day not distant, than by any other modes that had heretofore been devised.

The British Plenipotentiaries replied, that they would give it a candid examination, esteeming themselves fortunate, considering the great moral interests at stake, and which both nations had alike at heart, if they could reconcile its acceptance with the opinions and convictions which had hitherto guided the conduct of their government on this subject. They gave their unhesitating assent to the principle of denouncing the traffic as piracy by the laws of Great Britain, provided we could arrive at a common mind on all other parts of the plan proposed.

After they had had the plan a proper time under consideration, they expressed their fears that part of it would prove ineffectual, unless with modifications and additions which they would proceed to enumerate. These were principally as follow:

They said, that, as soon as the two powers, by their mutual laws, had rendered all participation of the slave trade piracy, and, by a formal convention, agreed to unite their naval efforts for its suppression, it might be expected that the subjects and citizens of each who meditated a commission of the offence, would no longer venture to assume the proper flag of either country, but seek to shroud their guilt under that of some third power, not yet a party to the convention. British subjects, or American citizens, might, for example, readily charter a Danish, a Swedish, or a Russian vessel, and under cover of either of these flags, with simulated papers, and other fraudulent contrivances, pursue the traffic, whilst the true owner of the vessel remained in ignorance of the real and guilty transaction.

Were such transgressors, the British Plenipotentiaries asked, to be screened from all detection and punishment, though the vessel should be afterwards restored? I answered, that I presumed not; and that the words of the second article of the project, *or for account of their subjects or citizens*, were, as I supposed, intended to meet such a case, or other similar attempts to get rid, by evasive pretexts, of the penalties created by the convention. They agreed in ascribing to them this meaning, but thought that some more distinctive provision would be necessary to prevent such evasions. They further asked, suppose a British subject, or an American citizen, to be taken whilst engaged in the slave trade, on board of a vessel not belonging to either power, or navigated on account of the subjects or citizens of either, and brought into Great Britain



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or her dominions, or into the United States, ought he not to be tried indiscriminately, in either country, since the laws of each would, alike, brand him as a pirate? This inquiry, if answered in the affirmative, involving a conflict with one of the primary provisions of the plan, the British Plenipotentiaries did not press, but, on the contrary, willingly withdrew it. They proposed, in lieu of it, that the subjects or citizens of either party, taken under such circumstances, should be sent home for trial, before the tribunals of their own country; and, to the proposition, as altered in this essential particular, I said that there would, probably, be no exception taken, for it might happen, that British subjects, thus offending, would be found within the jurisdiction of the United States, and, if their own citizens were ever justly captured whilst so offending, as a law of Congress already subjected them, when in this predicament, to the doom of pirates, I did not anticipate from my government, any objection to their being sent home for trial, in our own courts, under whatever circumstances, or by whatever country, they might be lawfully seized.

Would not serious or fatal embarrassments, they also asked, arise in regard to evidence, under the criminal prosecution against the crew of the slave-trading vessel, for the act of piracy, as provided by the eighth article of the project?

If the libel against the vessel took place first, as was supposed to be the case, how could the captain or crew be examined on interrogatories, since the fact of the condemnation of the vessel would draw after it their own guilt? Their answers, consequently, might bring them into jeopardy. I replied, that the commander or boarding officer, and other persons belonging to the capturing vessel, being sent in as witnesses against the accused vessel, might, perhaps under a convention of a character like the present, supercede, in some degree, the necessity of examining the crew, as was usual in admiralty causes; but that, if this would not be proper as a general rule, it might hold good, to some extent, in cases where the interior arrangements and structure of the vessel, and, above all, the actual presence of slaves, combined to establish more unequivocally, to the very eye, the iniquity of the voyage. At all events, the objection, if valid, which was not admitted, could go no further than to except, from the criminal prosecution, those of the crew, supposed to be few in number, who might be selected as witnesses on the part of the state or crown, leaving the rest open to all the penal inflictions of the convention. The British Plenipotentiaries ultimately agreed that the objection was unfounded, on learning, from their law officers, that the right of a witness not to answer, where a confession of guilt might be involved, was merely a general shield thrown over him, to be used or not, according to circumstances, and the opinion of the court, without otherwise affecting the action at law, or public prosecution, in the course of which the right might be claimed. It was an independent right, that stood upon its own basis, the existence and knowledge of which was not previously to foreclose the institution of this or any other prosecution, any more than it would the institution of a suit in a court of chancery, or before any other judicial tribunal.

They next drew my attention to the fifth article, which provides that no person shall be taken out of the captured vessel, a point that, I had declared, would be considered by my government as indispensable. What, then, they asked, might sometimes be the lot of the slaves? Suppose an hundred of them, or even more, on board the captured vessel, and that vessel, perhaps, a small one; suppose them all crowded together, under such circumstances of cruelty, that disease was among them, and death daily thinning their numbers; a supposition not exaggerated, under all the recollections of this afflicting traffic, but too likely to be often realized, as long as it was continued. What, in such a case, was to be done? I re-

plied, that I did not, for myself, understand the word *person* as applicable, in this sense, to the slaves, but to the crew of the vessel.

Nor did I regard the term *cargo*, against which a prohibition of removal, alike indispensable, existed, as descriptive, under this convention, of the slaves. Hence, when the removal of the latter, or any portion of them, should be found obviously necessary, from imperious motives of humanity, I saw no sufficient reason for questioning the propriety of allowing, under suitable regulations, such removal to take place.

As no person belonging to the crew was to be taken out, the British Plenipotentiaries, continuing their remarks upon the fifth article, next said, that a power on the part of the capturing ship, to confine the crew below, or otherwise restrain them, would be absolutely necessary, in contingencies to be fairly imagined, to give full effect to the principles which the project intended to secure.

The delinquent vessel, as often happened, might be powerfully manned. These men, rendered fierce, not to add desperate, by their vocation and the perils to which, by capture, they would become exposed, could not want the desire, and would naturally watch the opportunity, of overcoming the captors, in whose custody they were placed. Ought not, therefore, the captors to be furnished with adequate means of keeping the mastery over them, until the captured vessel was safely conveyed to her destination.

Such were the principal amendments or suggestions which the British Plenipotentiaries, at an early stage, put forward, and they were discussed between us in a temper frank and amicable. They declared that they did not offer them in the spirit of objection, but under sincere wishes to secure for the plan, at all points, the recommendations and potency, which it must be supposed each nation equally aimed at imparting to it. It was designed to act upon a stubborn as well as malignant class of offenders, whose cunning was not behind their depravity, and who had hitherto put to scorn the efforts of good men, in all countries, to check the stupendous enormity of their deeds. They concluded with saying, that they would present to my consideration a counter project, on the part of Great Britain, embracing what they deemed to be the necessary provisions upon the whole subject. I replied, that the articles of the plan which I had submitted had not been drawn up to the exclusion of others, that Great Britain might, in turn, have to propose; nor were they all to be insisted upon in the shape in which they first stood. There were, indeed, cardinal principles in them, that could, on no account, be departed from: but there were others, as well as much of detail, open to whatever alterations or additions both parties might be able to agree in thinking proper or useful.

This was the spirit in which I knew it to be the desire of my Government that the negotiation should be conducted.

The essential principles of our plan, as gathered from my best attention to it, in connexion with your instructions, I considered to be, 1st, That this nation was to declare the slave trade piracy by act of Parliament. 2d, That the captured vessel was to be sent to her own country, for trial, before its own tribunals, and never before those of the capturing power. 3d, That no individual belonging to the crew was ever to be taken out of the accused vessel. 4th, That the capturing officer should be laid under the most effective responsibility for his conduct, in all respects. 5th, That no merchant vessel under the protection, or in the presence, of a ship of war of her own nation, was ever to be visited by a ship of war of the other nation.

I informed the British plenipotentiaries, unreservedly, that I could consent to nothing, that did not give full security to each and all of the above principles. I knew

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that some of them bespoke a great change in pre-existing principles and usages, under the maritime code of the world; but the change was not for light, but high objects, and was believed, by my government, to be the only means by which they could be adequately and permanently secured.

At the fourth conference, their counter project was brought forward. I was happy to find that it acceded to all the principles that are above recapitulated, adopting, too, and largely, the language in which our own articles had been framed. To its first article, however, or rather to that passage in it which relates to convoy, I took strong exception, owing to the manner in which it was worded, and the import that it might bear. I also objected as strongly to the phraseology of so much of its tenth article as purported to save to both parties all their existing rights. Upon both the passages; upon their second article, bringing under the cognizance of the convention, the subjects or citizens of either power, surreptitiously chartering the flag of a third power; upon that part of their seventh article, also bringing within the pale of the convention the subjects or citizens of either power, found on board the slave trading vessel of a third power, though not chartered or owned by them; and upon those parts of their fourth article which make provision for restraining the crew of the captured vessel, and removing the slaves, full discussions followed at the fourth, the fifth, and the sixth conferences. More than once, I was not without apprehensions that the whole work would fall through.

More than once it rested upon a difficult balance, awakening solitudes for its fate. To their passage on convoy I objected, on full consideration, absolutely, and urged the reinsertion of our own article on the subject, in its very words, as being simple, intelligible, and appropriate. They as strenuously resisted its reinsertion, not, as they repeatedly and unequivocally declared, from any desire ever to exercise the power which it interdicted, and which would, therefore, render the reinsertion superfluous, but because they objected to the word *convoy*, and to the whole formality of our article, which would be embarrassing, in its comparison with the arrangement settled on this point in the treaty between Great Britain and the Netherlands, of May, 1818. Finally, as I could not give up the principle; but was not tenacious of the words, I agreed to drop it, on having other words, however few, that would carry the principle, but not more than the principle. Their own words, viz: *except when in the presence of a ship of war of its own nation*; would, I said, satisfy me, provided all that followed were expunged; and to this they assented. To the part expunged I had many objections, and, amongst others, that it approximated closely to the article in their treaty with the Netherlands, if, indeed, constructively, it might not have become identical with it, though the British plenipotentiaries protested against intending to give it any such character or meaning. It implied, also, I thought, the indecorum of pre-supposing that the naval officers of either power could be lax in the execution of their own duty.

The words of their tenth article, designed to save existing rights, I also struck out, declaring that those which formed the concluding passage of our own ninth article, must be received as the substitute for them. Why, I asked, mention existing rights at all? By the universal rule of interpretation, applicable to treaties, they would remain unchanged. The treaty, or convention, that we were forming, was special in its objects, special in its powers; special in its concessions. All other rights, whatever they might be, on either side, that did not range within the peculiar orbit of this Convention—as novel as beneficent in its grand intention, were necessarily left just as they were before. But they continued to insist upon the exclusion of my words, and the retention of their own, until the close of the sixth conference, when

they agreed to allow mine to stand, and to abandon theirs in the parts from which I did not feel authorized to withdraw my opposition. The last member of the sentence upon this point, in the article as it now stands in the Convention, viz: *nor be taken to affect, in any other way, the existing rights of either of the high contracting parties*, is that with which, in the end, they became satisfied. It will be seen how essentially it varies from the parallel passage, as first submitted in their counter project.

To the sending home of our citizens for trial, if taken in the act of piracy, under the flag of a third power, as provided in their seventh article, I objected, on more consideration, as not likely to bring with it due practical reciprocity, when the convention went into operation. Great Britain had the right, under existing treaties, to seize the slave-trading vessels of Portugal, of Spain, and of the Netherlands: whereas, the United States, as yet, had no such correlative right. But the British Plenipotentiaries earnestly pressed its adoption, with a view to the more full attainment of all the objects of the Convention, now and hereafter.

In the face of our act of Congress, of the 15th of May, 1820, which already subjects to death, as a pirate, any citizen of the United States, convicted of being of the crew, or ship's company, of any foreign vessel engaged in the slave trade; in the face, too, of the general rule of public law, which has heretofore authorized the punishment of pirates by the courts of whatever nation they may be brought before, I did not feel called upon to persist in my opposition.

I could scarcely continue to urge, as very objectionable, the being furnished with the means (should the occasions arise,) of executing our own laws upon our own citizens, by whomsoever they might be detected and secured, whilst in the act of violating them. The British Plenipotentiaries, moreover, remarked, that the whole Convention exhibited a preponderance of concession on the side of Great Britain, in accommodation to the principles and views of the United States.

At our instance she was about, by a new statute of her realm, to make the slave trade piracy; at our instance she agreed that the captured vessel and crew should be sent to their own country for trial—a course also new to all her past maritime doctrines and experience; and as regarded all the incidental consequences flowing from these two fundamental concessions, she still, at our instance, gave up, or modified, many of her former national and jurisprudential practices and predilections. They said, too, that the preponderance of burden, under the Convention, would lie with Great Britain, both in the greater number of public ships that she would employ in the suppression of the traffic, and in the fact of the United States not having colonial dependencies, as Britain had, to serve as ready depots for those detected in it.

I was far from lending my concurrence to these sentiments, which were to be taken with their just qualifications.

The occasion, I remarked, was one where, instead of each nation pushing adverse rights, or striving for superior advantages, it ought rather to be considered, that each was equally and spontaneously surrendering up a portion of its anterior system, each moving under one and the same impulse, towards one and the same object, each proposing to itself no other interests than those of benevolence and justice; no other gain, (yet how great the gain!) than that of protecting the innocent and laying prostrate the guilty. It was a negotiation, with this distinguishing feature, that it looked *exclusively* to the benefit of a third party, assuming reciprocal duties and burdens for its sake, and flinging aside, as alien to the benign spirit in which it was conceived and undertaken, every selfish end or feeling. To the obligations, no less elevated than interesting, that sprung from such a nego-

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tiation, it was believed that neither party was insensible, and that both stood alike anxious to hail its favorable results. In mentioning the sentiments which the British Plenipotentiaries expressed, it must not be understood that I report them as having been uttered in complaint; and it would be an omission inexcusable in me, were I not to add, that they cordially and zealously responded to the enlarged and animating objects of the international compact which we were endeavoring to adjust.

To their second article, bringing under the penalties of the compact the subjects or citizens of either power, chartering the vessel of a third power, for the purpose of carrying on the trade, I assented, believing that it did no more than effectuate the intention of our own second article, under words more full.

To the provision in their fourth article, giving a power for laying the crew of the captured vessel under such restraints as might become indispensable for their detention and safe delivery, I also consented; varying its language to such as it will now be seen in the convention.

I considered, in fact, such a power as only analogous, under one view, to that which is familiar to all jurisprudence, of securing an accused party between the time of arrest and of trial; and as doubly called for, in this instance, in that it went to the necessary safeguard and protection of those who were constituted, by the convention, its incipient ministers of justice.

With a like variation in the language, I consented to the passage, in the same article, which gives power for removing the slaves. The preservation of their lives, or other urgent motives of humanity, is made the condition of their removal, and a stipulation is superadded, that they are to be accounted for to the government of the country to which the captured vessel belongs, and be disposed of according to its laws.

I have thus indicated all the changes appearing to me to be important between the project which you committed to me, and the convention as it has been signed.

A few other deviations, verbal or in arrangement, will be perceived, but have not struck me as sufficiently material to call for particular notice or elucidation. The less so, as I write under the pressure of other duties, arising out of the general negotiation, and with a desire to secure for the convention as early an arrival at Washington as possible; considerations which, I trust, will account for and excuse my omitting to trace, by minute marginal parallels, the whole of the alterations superinduced upon the counter-project, before the work was terminated. It is only left for me to hope that this despatch, with its enclosures, will render the progress of the negotiation intelligible. It may be needless in me to say, that I have done all in my power to make the result satisfactory. The motive for using all practicable expedition in making up my despatch is, that, should the convention be approved by the President, the option may not be lost of submitting it to the consideration of the Senate before the present session of Congress reaches its close.

Should it be looked at as a whole, meet acceptance in the eyes of my government, and become, happily, the era of a new and saving spirit introduced into the laws of nations for the relief of Africa, her redeemed and grateful children will have cause to pour out the fervent thanksgivings of their hearts towards those Christian powers that have at length been enabled—and rejoice that they have been enabled—to arrest the portentous desolation that for long ages has swept over their land, filling it with the concentration of every human woe.—Then, at last, may we all hope, and not in vain, to see their tears dried up, their sufferings turned to joy, their groans to songs of benediction.

The enclosures of this despatch are, 1st, the convention. 2d, the British counter-project, marked C. 3d, copies of the first, second, fourth, fifth, sixth, and se-

venth protocols. I have ventured to omit sending a copy of our own project, marked B, it having been submitted in the precise state in which I had it from you; nor do I employ a special messenger for conveying the convention, not having done so when I forwarded the treaty of 1818—a course that was not disapproved. I shall now, as then, commit it to the care of our Consul at Liverpool, with a request that he will get it on ship-board with all speed, and under the best auspices he can command.

I have the honor to remain, with very great respect, your obedient servant,

RICHARD RUSH.

HON. JOHN Q. ADAMS, *Secretary of State.*

### THE CONVENTION

The United States of America and his Majesty the King of the United Kingdom of Great Britain and Ireland, being desirous to co-operate for the complete suppression of the African slave trade, by making the law of piracy, as applied to that traffic, under the statutes of their respective legislatures, immediately and reciprocally operative on the vessels and subjects, or citizens, of each other, have respectively appointed their Plenipotentiaries to negotiate and conclude a convention for that purpose, that is to say: On the part of the United States of America, Richard Rush, Envoy Extraordinary and Minister Plenipotentiary from those States to the Court of his Majesty; and on the part of his Britannic Majesty, the Right Honorable William Huskisson, a member of his Majesty's most honorable Privy Council, President of the Committee of Privy Council, for affairs of trade and foreign plantations, Treasurer of his Majesty's Navy, and a member of the Parliament of the United Kingdom; and the Right Honorable Stratford Canning, a member of his said Majesty's most Honorable Privy Council, and his Envoy Extraordinary and Minister Plenipotentiary to the United States of America; which Plenipotentiaries, after duly communicating to each other their respective full powers, found to be in proper form, have agreed upon, and concluded, the following articles:

ARTICLE I. The commanders and commissioned officers of each of the two high contracting parties, duly authorized, under the regulations and instructions of their respective governments, to cruise on the coasts of Africa, of America, and of the West Indies, for the suppression of the slave trade, shall be empowered, under the conditions, limitations, and restrictions, hereinafter specified, to detain, examine, capture, and deliver over, for trial and adjudication, by some competent tribunal, of whichever of the two countries it shall be found, on examination, to belong to, any ship or vessel concerned in the illicit traffic of slaves, and carrying the flag of the other, or owned by any subjects or citizens of either of the two contracting parties, except when in the presence of a ship of war of its own nation; and it is further agreed, that any such ship or vessel, so captured, shall be either carried, or sent, by the capturing officer, to some port of the country to which it belongs, and there given up to the competent authorities, or be delivered up, for the same purpose, to any duly commissioned officer of the other party, it being the intention of the high contracting powers, that any ship or vessel, within the purview of this convention, and seized on that account, shall be tried and adjudged by the tribunals of the captured party, and not by those of the captor.

ARTICLE II. In the case of any ship or vessel detained under this convention, by the cruisers of either of the two contracting parties, on suspicion of carrying on the slave trade, being found, on due examination by the boarding officer, to be chartered on account of any of the subjects or citizens of the other party, although not actually bearing the flag of that party, nor owned by the individuals on whose account she is chartered, or by

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any other citizens or subjects of the same nation, it is hereby agreed that, in such case, also, upon the delivery of the said vessel to the tribunals of that country to which the persons on whose account she is chartered, belong, the vessel, cargo, and crew, shall be proceeded against in like manner as any other vessel, cargo, and crew, within the purview of this convention, in so far as the general practice, under the law of nations, will allow.

ARTICLE III. Whenever any naval commander, or commissioned officer, of either of the two contracting powers, shall, on the high seas, or any where not within the exclusive jurisdiction of either party, board, or cause to be boarded, any merchant vessel bearing the flag of the other power, and visit the same as a slave trader, or on suspicion of her being concerned in the slave trade, in every such case, whether the vessel so visited shall, or shall not, be captured and delivered over, or sent into the ports of her own country for trial and adjudication, the boarding officer shall deliver to the master, or commander of the visited vessel, a certificate, in writing, signed by the said boarding officer, and specifying his rank in the navy of his country, together with the names of the commander by whose orders he is acting, and of the national vessel commanded by him: and the said certificate shall further contain a declaration, purporting that the only object of the visit is to ascertain whether the merchant vessel in question is engaged in the slave trade, or not; and, if found to be so engaged, to take and deliver her to the officers or tribunals of her own country, being that of one of the two contracting parties, for trial and adjudication.

In all such cases, the commander of the national vessel, whether belonging to Great Britain or to the United States, shall, when he makes delivery of his capture, either to the officers or to the tribunals of the other power, deliver all the papers found on board the captured vessel, indicating her national character, and the objects of her voyage, and, together with them, a certificate, as above, of the visit, signed with his name, and specifying his rank in the navy of his country, as well as the name of the vessel commanded by him, together with the name and professional rank of the boarding officer by whom the said visit has been made.

This certificate shall also contain a list of all the papers received from the master of the vessel detained or visited, as well as those found on board the said vessel: it shall also contain an exact description of the state in which the vessel was found, when detained, and a statement of the changes, if any, which have taken place in it, and of the number of slaves, if any, found on board at the moment of detention.

ARTICLE IV. Whenever any merchant vessel of either nation shall be visited under this convention, on suspicion of such vessel being engaged in the slave trade, no search shall, in any such case, be made on board the said vessel, except what is necessary for ascertaining, by due and sufficient proofs, whether she is, or is not, engaged in that illicit traffic. No person shall be taken out of the vessel so visited, (though such reasonable restraints as may be indispensable for the detention and safe delivery of the vessel, may be used against the crew,) by the commanding officer of the visiting vessel, or under his orders; nor shall any part of the cargo of the visited vessel be taken out of her, till after her delivery to the officers or tribunals of her own nation, excepting only when the removal of all, or a part of the slaves, if any, found on board the visited vessel, shall be indispensable either for the preservation of their lives, or from any other urgent consideration of humanity, or for the safety of the persons charged with the navigation of the said vessel after her capture. And any of the slaves so removed shall be duly accounted for to the government of that country to which the visited vessel belongs, and shall be disposed of according to the laws of the country into which they are carried; the regular bounty, or

head money, allowed by law, being in each instance secured to the captors, for their use and benefit, by the receiving government.

ARTICLE V. Whenever any merchant vessel, of either nation, shall be captured under this convention, it shall be the duty of the commander of any ship belonging to the public service of the other, charged with the instructions of his government for carrying into execution the provisions of this convention, at the requisition of the commander of the capturing vessel, to receive into his custody the vessel so captured, and to carry or send the same for trial and adjudication into some port of his own country, or of its dependencies. In every such case, at the time of the delivery of the vessel, an authentic declaration shall be drawn up in triplicate, and signed by the commanders, both of the delivering and receiving vessels; one copy, signed by both, to be kept by each of them, stating the circumstances of the delivery, the condition of the captured vessel at the time of delivery, including the names of her master or commander, and of every other person, not a slave, on board at that time, and exhibiting the number of the slaves, if any, then on board of her, and a list of all the papers received or found on board at the time of capture, and delivered over with her. The third copy of the said declaration shall be left in the captured vessel, with the papers found on board, to be produced before the tribunal charged with the adjudication of the capture. And the commander of the capturing vessel shall be authorized to send any one of the officers under his command, and one or two of his crew, with the captured vessel, to appear before the competent tribunal as witnesses of the facts regarding her detention and capture; the reasonable expenses of which witnesses, in proceeding to the place of trial, during their detention there, and for their return to their own country, or to their station in its service, shall be allowed by the court of adjudication, and defrayed, in the event of the vessel being condemned, out of the proceeds of its sale; in case of the acquittal of the vessel, the expenses, as above specified, of these witnesses, shall be defrayed by the government of the capturing officer.

ARTICLE VI. Whenever any capture shall be made under this convention, by the officers of either of the contracting parties, and no national vessel of that country, to which the captured vessel belongs, is cruising on the same station where the capture takes place, the commander of the capturing vessel shall, in such case, either carry or send his prize to some convenient port of its own country, or of any of its dependencies, where a court of vice admiralty has jurisdiction, and there give it up to the competent authorities, for trial and adjudication.

The captured vessel shall then be libelled, according to the practice of the court taking cognizance of the case; and, if condemned, the proceeds of the sale thereof, and of its cargo, if also condemned, shall be paid to the commander of the capturing vessel, for the benefit of the captors, to be distributed among them according to the rules of their service respecting prize money.

ARTICLE VII. The commander and crew of any vessel, captured under this convention, and sent in for trial, shall be proceeded against conformably to the laws of the country whereinto they shall be brought, as pirates, engaged in the African slave trade; and it is further agreed, that any individual, being a citizen or subject of either of the two contracting parties, who shall be found on board any vessel, not carrying the flag of the other party, nor belonging to the subjects or citizens of either, but engaged in the illicit traffic of slaves, and lawfully seized, on that account, by the cruisers of the other party, or condemned under circumstances which, by involving such individual in the guilt of slave trading, would subject him to the penalties of piracy, he shall be sent for trial, before the competent court, in the country to

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which he belongs; and the reasonable expenses of any witnesses belonging to the capturing vessel, in proceeding to the place of trial, during their detention there, and for their return to their own country, or to their station in its service, shall, in every such case, be allowed by the court, and defrayed by the country in which the trial takes place; but every witness belonging to the capturing vessel, shall, upon the criminal trial for piracy, be liable to be challenged by the accused person, and set aside, as incompetent, unless he shall release his claim to any part of the prize money, upon the condemnation of the vessel and cargo.

ART. VIII.—The right, reciprocally conceded by the two contracting powers, of visiting, capturing, and delivering over for trial, the merchant vessels of the other, engaged in the traffic of slaves, shall be exercised only by such commissioned officers of their respective Navies, as shall be furnished with instructions for executing the laws of their respective countries against the slave trade. For every vexatious and abusive exercise of this right, the boarding officer, and the commander of the capturing or searching vessel, shall, in each case, be personally liable, in costs and damages, to the master and owners of any merchant vessel delivered over, detained, or visited, by them, under the provisions of this Convention.

Whatever court of admiralty shall have cognizance of the cause, as regards the captured vessel, in each case, the same court shall be competent to hear the complaint of the masters or owners, or of any person, or persons, on board the said vessel, or interested in the property of her cargo at the time of her detention; and, on due and sufficient proof being given to the court of any vexation and abuse having been practised during the search or detention of said vessel, contrary to the provisions and meaning of this convention, to award reasonable costs and damages to the sufferers; to be paid by the commanding or boarding officer convicted of such misconduct.

The government of the party thus cast in damages and costs shall cause the amount of the same to be paid in each instance, agreeably to the judgment of the court, within twelve months from the date thereof.

In case of any such vexation and abuse occurring in the detention or search of a vessel detained under this convention, and not afterwards delivered over for trial, the persons aggrieved, being such as are specified above, or any of them, shall be heard by any court of admiralty of the country of the captors, before which they make complaint thereof; and the commander and boarding officer of the detaining vessel, shall, in such instance, be liable as above, in costs and damages, to the complainants, according to the judgment of the court, and their government shall equally cause payment of the same to be made, within twelve months from the time when such judgment shall have been pronounced.

ARTICLE IX. Copies of this convention, and of the laws of both countries, actually in force, for the prohibition and suppression of the African slave trade, shall be furnished to every commander of the national vessels of either party, charged with the execution of those laws; and in case any such commanding officer shall be accused, by either of the two governments, of having deviated, in any respect, from the provisions of this convention, and the instructions of his own government in conformity thereto, the government, to which such complaint shall be addressed, agrees, hereby, to make inquiry into the circumstances of the case, and to inflict on the officer complained of, in the event of his appearing to deserve it, a punishment adequate to his transgression.

ARTICLE X. The high contracting parties declare, that the right which, in the foregoing articles, they have each reciprocally conceded, of detaining, visiting, capturing & delivering over for trial, the merchant vessels of the

other, engaged in the African slave trade, is wholly and exclusively grounded on the consideration of their having made that traffic piracy by their respective laws; and further, that the reciprocal concession of the said right, as guarded, limited, and regulated, by this convention, shall not be so construed as to authorize the detention or search of the merchant vessels of either nation, by the officers of the navy of the other, except vessels engaged, or suspected of being engaged, in the African slave trade, or for any other purpose whatever than that of seizing and delivering up the persons and vessels concerned in that traffic, for trial and adjudication, by the tribunals and laws of their own country; nor be taken to affect, in any other way, the existing rights of either of the high contracting parties. And they do also hereby agree and engage to use their influence, respectively, with other maritime and civilized powers, to the end that the African slave trade may be declared to be piracy under the law of nations.

ARTICLE XI. The present convention, consisting of eleven articles, shall be ratified, and the ratifications exchanged, at London, within the term of twelve months, or as much sooner as possible.

In witness whereof, the respective Plenipotentiaries have signed the same, and have affixed thereunto the seals of their arms.

Done at London, the thirteenth day of March, in the year of our Lord one thousand eight hundred and twenty-four.

RICHARD RUSH, [L. s.]

W. HUSKISSON, [L. s.]

STRATFORD CANNING, [L. s.]

(With Mr. Rush's No. 2, of 15th March, 1824.)

C.

BRITISH COUNTER PROJET.

PREAMBLE.

His Majesty the King of the United Kingdom of Great Britain and Ireland, and the United States of North America, being desirous to co-operate for the complete suppression of the African Slave Trade, by making the law of piracy, as applied to that traffic, under the statutes of their respective legislatures, immediately and reciprocally operate on the vessels and subjects, or citizens, of each other, have respectively appointed their Plenipotentiaries, to negotiate and conclude a convention for that purpose, that is to say: on the part of his Britannic Majesty, the Right Hon. William Huskisson, &c. &c. and the Right Hon. Stratford Canning, &c. &c.; and on the part of the United States, Richard Rush, Envoy Extraordinary and Minister Plenipotentiary from those States to the court of his Majesty; which Plenipotentiaries, after duly communicating to each other their respective full powers, found to be in proper form, have agreed upon and concluded the following articles:

I. The commanding and commissioned officers of each of the two high contracting parties, duly authorized, under the regulations and instructions of their respective Governments, to cruise on the coasts of Africa, of America, and of the West Indies, for the suppression of the slave trade, shall be empowered, under the conditions, limitations, and restrictions, hereinafter specified, to detain, examine, capture, and deliver over for trial and adjudication, by some competent tribunal, or whichever of the two countries it shall be found, on examination, to belong to, any ship or vessel concerned in the illicit traffic of slaves, and carrying the flag of the other, or owned by any subjects or citizens of either of the two contracting parties, except when in presence of a ship of war of its own nation; in which case, the commanding officer of the other party, instead of ordering the detention or search of the suspected vessel himself, shall give information of his suspicions to the commander of the said ship of war, and invite him to cause the sus-



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pected vessel to be searched and detained under his exclusive authority; provided, however, that the delay required for this purpose be not such, from peculiar and unavoidable circumstances, as to enable the suspected vessel to escape.

It is further agreed, that any such ship or vessel, so captured, shall either be carried, or sent, by the capturing officer, to some port of the country to which it belongs, and there given up to the competent authorities, or be delivered up for the same purpose, to any duly commissioned officer of the other party: it being the intention of the high contracting powers, that any ship or vessel within the purview of this convention, and seized on that account, shall be tried and adjudged by the tribunals of the captured party, and not by those of the captor.

II. In the case of any ship or vessel detained by the cruisers of either of the two contracting parties, on suspicion of carrying on the slave trade, being found, on due examination by the boarding officer, to be chartered on account of any of the subjects or citizens of the other party, although not actually bearing the flag of that party, nor owned by the individuals on whose account she is chartered, or by any other citizens or subjects of the same nation, it is hereby agreed, that, in such case also, upon the delivery of the said vessel to the tribunals of that country to which the persons, on whose account she is chartered, belong, the vessel, cargo, and crew, shall be proceeded against in like manner as any other vessel, cargo, and crew, within the purview of this convention, insofar as the general practice under the law of nations will allow.

III. Whenever any naval commander or commissioned officer of either of the two contracting powers shall, on the high seas, or any where not within the exclusive jurisdiction of either party, board, or cause to be boarded, any merchant vessel, bearing the flag of the other power, and visit the same as a slave trader, or on suspicion of her being concerned in the slave trade, in every such case, whether the vessel so visited, shall, or shall not, be captured and delivered over, or sent into the ports of her own country, for trial and adjudication, the boarding officer shall deliver to the master or commander of the visited vessel a certificate, in writing, signed by the said boarding officer, and specifying his rank in the navy of his country, together with the names of the commander by whose orders he is acting, and of the national vessel commanded by him; and the said certificate shall further contain a declaration, purporting that the only object of the visit is to ascertain whether the merchant vessel in question is engaged in the slave trade, or not, and if found to be so engaged, to take and deliver her to the officer or tribunals of her own country, being that of one of the two contracting parties, for trial and adjudication.

In all such cases, the commander of the national vessel, whether belonging to Great Britain or to the United States, shall, when he makes delivery of his capture, either to the officers or to the tribunals of the other power, deliver all the papers found on board the captured vessel, indicating her national character, and the objects of her voyage; and, together with these, a certificate, as above, of the visit, signed with his name, and specifying his rank in the navy of his country, as well as the name of the vessel commanded by him, together with the name and professional rank of the boarding officer by whom the said visit has been made.

This certificate shall also contain a list of all the papers received from the master of the vessel detained, or visited, as well as those found on board the said vessel. It shall, also, contain an exact description of the state in which the vessel was found when detained, and a statement of the changes, if any, which have taken place in it, and of the number of slaves, if any, found on board at the moment of detention.

IV. Whenever any merchant vessel, of either nation, shall be visited, under this convention, on suspicion of such vessel being engaged in the slave trade, no search shall, in any such case, be made on board the said vessel, except what is necessary for ascertaining, by positive and sufficient proofs, whether she is, or is not, engaged in that illicit traffic. No person shall be taken out of the vessel so visited, though measures of restraint and personal coercion, necessary for the detention and safe delivery of the vessel, may be employed against its crew, by the commanding officer of the visiting vessel, or under his orders; nor shall any part of the cargo of the visited vessel be taken out of her, till after her delivery to the officers or tribunals of her own nation; excepting only when the immediate removal of all, or a part of the slaves, if any, found on board the visited vessel, shall be necessary either for the preservation of their lives, or for the safety of the persons charged with the navigation of the said vessel after her capture. And any of the slaves, so removed, shall be duly accounted for to the government of that country to which the visited vessel belongs, and shall be disposed of according to the laws of the country into which they are carried; the regular bounty or head money, allowed by law, being, in each instance, secured to the captors, for their use and benefit, by the receiving government.

V. Whenever any merchant vessel, of either nation, shall be captured, under this convention, it shall be the duty of the commander of any ship belonging to the public service of the other, charged with the instructions of his government for carrying into execution the provisions of this convention, on the coast of Africa, of America, or of the West Indies, at the requisition of the commander of the capturing vessel, to receive into his custody the vessel so captured, and to carry or send the same, for trial and adjudication, into some port of his own country. In every such case, at the time of the delivery of the vessel, an authentic declaration shall be drawn up in triplicate, and signed by the commanders both of the delivering and receiving vessels; one copy, signed by both, to be kept by each of them, stating the circumstances of the delivery, the condition of the captured vessel at the time of delivery, including the names of her master or commander, and of every other person, not a slave, on board at that time, and exhibiting the number of the slaves, if any, then on board her, and a list of all the papers received or found on board at the time of capture, and delivered over with her. The third copy of the said declaration shall be left in the captured vessel, with the papers found on board, to be produced before the tribunal charged with the adjudication of the capture.

And the commander of the capturing vessel shall be authorized to send any one of the officers under his command, and one or two of his crew, with the captured vessel, to appear before the competent tribunal, as witnesses of the facts regarding her detention and capture; the reasonable expenses of which witnesses, in proceeding to the place of trial, during their detention there, and for their return to their own country, or to their station in its service, shall be allowed by the court of adjudication, and defrayed, in the event of the vessel being condemned, out of the proceeds of its sale. In case of the acquittal of the vessel, the expenses, as above specified, of these witnesses, shall be defrayed by the government of the capturing officer.

VI. Whenever any capture shall be made under this convention, by the officers of either of the contracting parties, and no national vessel of that country to which the captured vessel belongs is cruising on the same station where the capture takes place, the commander of the capturing vessel shall, in such case, either carry or send his prize to some convenient port of his own country, or of any of its dependencies, where a court of vice admiralty has jurisdiction, and there give it up to the competent authorities, for trial and adjudication. The

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captured vessel shall then be libelled according to the practice of the court taking cognizance of the case; and, in case of its being condemned, the proceeds of the sale thereof, and of its cargo, if also condemned, shall be paid to the commander of the capturing vessel, for the benefit of the captors, to be distributed among them, according to the rules of their service respecting prize-money.

VII. The commander and crew of any vessel captured under this Convention, and sent in for trial, shall be proceeded against conformably to the laws of the country whereinto they shall be brought, as pirates engaged in the African Slave Trade; and it is further agreed, that any individual, being a citizen or subject of either of the two contracting parties, who shall be found on board any vessel not carrying the flag of the other party, nor belonging to the subjects or citizens of either, engaged in the illicit traffic of slaves, and seized or condemned on that account, by the cruisers of the other party, under circumstances which, by involving such individual in the guilt of slave-trading, would subject him to the penalties of piracy, he shall be sent for trial before the competent court in the country to which he belongs, and the reasonable expenses of any witnesses belonging to the capturing vessel, in proceeding to the place of trial, during their detention there, and for their return to their own country, or to their station in its service, shall, in every such case, be allowed by the court, and defrayed by the country in which the trial takes place.

VIII. The right, reciprocally conceded by the two contracting powers, of visiting, capturing, and delivering over for trial, the merchant vessels of the other, engaged in the traffic of slaves, shall be exercised only by such commissioned officers of their respective navies, as shall be furnished with instructions for executing the laws of their respective countries against the slave trade.

For every vexatious and abusive exercise of this right, the boarding officer and the commander of the capturing or searching vessel shall, in each case, be liable, in costs and damages, to the master and owners of any merchant vessel delivered over, detained, or visited, by them, under the provisions of this convention.

Whatever court of admiralty shall have cognizance of the cause, as regards the captured vessel in each case, the same court shall be competent to hear the complaint of the master, or of any person on board, or interested in the property of her cargo, at the time of her detention; and, on clear, indubitable proof being given to the court, of any vexation and abuse having been practised during the search or detention of the said vessel, contrary to the provisions and meaning of this convention, to award reasonable costs and damages to the sufferers, to be paid by the commanding or boarding officer convicted of such misconduct.

The government of the party thus cast in damages and costs, shall cause the amount of the same to be paid, in each instance, agreeably to the judgment of the court, within twelve months from [and] after the date thereof.

In case of any such vexation and abuse occurring in the detention or search of a vessel detained under this convention, and not afterwards delivered over for trial, the persons aggrieved, being such as are specified above, or any of them, shall be heard by any court of admiralty of the country of the captors, before which they make complaint thereof, and the commander and boarding officer of the detaining vessel shall, in each instance, be liable, as above, in costs and damages, to the complainants, according to the judgment of the court, and their government shall equally cause payment of the same to be made, within twelve months from the time when such judgment shall have been pronounced.

IX. Copies of this convention, and of the laws of both countries actually in force, for the prohibition and suppression of the African slave trade, shall be furnished to every commander of the national vessels of either party, charged with the execution of those laws; and, in case

any such commanding officer shall be accused, by either of the two governments, of having deviated, in any respect, from the provisions of this convention, and the instructions of his own government, in conformity thereto, the government to which such complaint shall be addressed, agrees, hereby, to make inquiry into the circumstances of the case, and to inflict on the officer complained of, in the event of his appearing to deserve it, a punishment adequate to his transgression.

X. The high contracting parties declare, that the right which, in the foregoing articles, they have each reciprocally conceded, of detaining, visiting, capturing, and delivering over for trial, the merchant vessels of the other, engaged in the African slave trade, is wholly and exclusively grounded on the consideration of their having made that traffic piracy, by their respective laws; and, further, that the concession of the said right, as guarded, limited, and regulated, by this convention, is meant and understood by them neither to extend to, nor in any way to affect, any other existing or eventual right of search, or of capture at sea; in like manner as the mode of delivery and adjudication, stipulated in this convention, is not intended by them to affect, in any way, the ordinary modes of proceeding against vessels captured on the high seas, under the law of nations; and they do also hereby agree and engage to use their influence, respectively, with other maritime and civilized powers, to the end that the African slave trade may be generally declared to be piracy, under the law of nations.

(With Mr. Rush's No. 2, of March 15th, 1824.)

Protocol of the first conference of the American and British Plenipotentiaries, held at the Board of Trade, on the 23d of January, 1824.

PRESENT—Mr. Rush,  
Mr. Huskisson,  
Mr. Stratford Canning.

It was agreed, after the communication and exchange of the respective full powers, that the negotiation should be carried on by conference and protocol, with the right, on both sides, of annexing to the protocol any written statement, which either party might consider necessary as matter either of record or of explanation.

It was further agreed, that the slave trade should be made the first subject of discussion; and that any articles on that head, which the parties might agree in drawing up, should be formed into a separate convention, to be submitted for ratification to the respective governments immediately on its conclusion, and without reference to the state of the negotiation on other matters.

The British Plenipotentiaries intimated their expectation to receive from Mr. Rush, in the first instance, a full communication of the proposals intended to be brought forward, successively, by his government, under the heads of the several questions, for the adjustment of which the negotiation had been opened, in conformity with the annexed memorandum, previously communicated by him. (marked A.)

In pursuance of this intimation, Mr. Rush, after some introductory remarks, explanatory of the views of his government upon this subject, communicated, *in extenso*, the project of a Convention, for effecting a system of co-operation between the United States and Great Britain, with a view to the complete suppression of the slave trade.

The British Plenipotentiaries, in receiving this project, observed, that they could not be expected to express any opinion, as to its admissibility, either in whole or in part, on a first perusal; to which observation the American Plenipotentiary assented, and it was agreed that the next conference should take place on Monday the second of February.

RICHARD RUSH,  
W. HUSKISSON,  
STRATFORD CANNING.

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A.

Memorandum referred to in the first conference.

1. Memorial intercourse between the United States and the colonial possessions of Great Britain in America and the West Indies; and the claim of the United States to the navigation of the river St. Lawrence.
2. Suppression of the slave trade.
3. Boundary line under the fifth article of the treaty of Ghent.
4. Admission of consuls of the United States in the colonial ports of Great Britain.
5. Newfoundland Fishery.
6. Ukase of his Imperial Majesty the Emperor of Russia, of September, 1821, with a view to an adjustment of the boundaries between the United States and Great Britain, on the northwest coast of America.
7. Questions of maritime law, heretofore in discussion between the two nations; and, also, that of abolishing privateering as between them.

*Protocol of the second conference of the American and British Plenipotentiaries, assembled at the Board of Trade on the 2d of February, 1824.*

PRESENT—Mr. Rush,  
Mr. Huskisson,  
Mr. Stratford Canning.

The protocol of the preceding conference was read over, and signed.

The British Plenipotentiaries stated that, after mature consideration of the project given in by Mr. Rush, at the former conference, they were disposed to consent to the general principle on which it rested, but that there were serious difficulties in the mode of carrying that principle into effect, which they wished to point out and discuss with Mr. Rush, in the hope of arriving, with his assistance, at some solution satisfactory to both parties.

The discussion which ensued, with a view to the removal or modification of such provisions in the project as were thought likely to render the proposed convention more or less ineffectual, terminated in an agreement, on the part of the American Plenipotentiary, after he had stated his first impressions on the subject, to reconsider, more at leisure, the points of his project, which appeared objectionable to the British Plenipotentiaries; and, on their part, to ascertain, by reference to the proper law officers, how far it might be practicable to obviate the legal difficulties on their side.

It was agreed to meet again on the 5th instant, and, in case of any further causes of delay arising in the consideration of the slave trade project, to proceed at once with the next subject of negotiation, until these causes should be removed.

RICHARD RUSH,  
W. HUSKISSON,  
STRATFORD CANNING.

*Protocol of the fourth conference of the American and British Plenipotentiaries, held at the Board of Trade, Feb. 16th, 1824.*

PRESENT—Mr. Rush,  
Mr. Huskisson,  
Mr. Stratford Canning.

The protocol of the preceding conference was read over, and signed.

Several points connected with the propositions brought forward by the American Plenipotentiary, in the previous conferences, were informally discussed, with a view to explanation, and, if possible, to the removal of difficulties on both sides.

The British Plenipotentiaries communicated a counter-project, (marked C.), comprising the principal alterations which they proposed to introduce into the articles on the slave trade, presented by Mr. Rush, and annexed to the protocol of the first conference.

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After discussing these alterations in a general way, it was agreed that a formal consideration of the articles on this subject, as produced on both sides, should take place at the next conference, to be fixed at as early a period as possible, with a view to the conclusion of a convention satisfactory to each of the contracting parties. Adjourned.

RICHARD RUSH,  
W. HUSKISSON,  
STRATFORD CANNING.

*Protocol of the fifth conference of the American and British Plenipotentiaries, held at the Board of Trade, March 9th, 1824.*

PRESENT—Mr. Rush,  
Mr. Huskisson,  
Mr. Stratford Canning.

The protocol of the preceding conference was read over, and signed.

The discussion which had taken place at the last conference, upon the subject of the slave trade, was renewed, principally with reference to the first and tenth articles of the counter-project of the British Plenipotentiaries.

No satisfactory adjustment of the points at issue being arrived at, it was agreed to meet again on the 11th inst. for their further consideration.

RICHARD RUSH,  
W. HUSKISSON,  
STRATFORD CANNING.

*Protocol of the sixth conference of the American and British Plenipotentiaries, held at the Board of Trade, March 11th, 1824.*

PRESENT—Mr. Rush,  
Mr. Huskisson,  
Mr. Stratford Canning.

The protocol of the preceding conference was read over, and signed.

The points on the subject of the slave trade, which had been left undetermined at the last conference, were again brought under discussion; and, being, at length, satisfactorily adjusted, it was determined that, at the next meeting, to be held on the 13th instant, the business should be completed, by the signature of the Convention, as agreed on.

RICHARD RUSH,  
W. HUSKISSON,  
STRATFORD CANNING.

*Protocol of the seventh conference of the American and British Plenipotentiaries, held at the Board of Trade, March 13th, 1824.*

PRESENT—Mr. Rush,  
Mr. Huskisson,  
Mr. Stratford Canning.

The protocol of the preceding conference was read over, and signed.

In pursuance of the agreement entered into at the last conference, the Convention on the subject of the slave trade was produced; and, being found, on perusal, to be, in all respects, satisfactory to the Plenipotentiaries on both sides, received their respective signatures.

The protocol of the present conference was, also, read over, and signed.

RICHARD RUSH,  
W. HUSKISSON,  
STRATFORD CANNING.

IN SENATE.

FRIDAY, April 30, 1824.

The Message, Convention, and Documents, were read. Ordered, That they be referred to the Committee on Foreign Relations, to consider and report thereon, and be printed under an injunction of secrecy.

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*Message from the President of the United States, transmitting additional Documents relative to the Convention with Great Britain for the suppression of the African Slave Trade.*

TO THE SENATE OF THE UNITED STATES :

I communicate to the Senate copies of additional Documents, relating to the Convention for the suppression of the African Slave Trade, which have this day been received at the Department of State.

JAMES MONROE.

Washington, 7th May, 1824.

LIST OF PAPERS.

Letter from Mr. Rush to the Secretary of State, 1st April, 1824.

Letter from Mr. Huskisson to Mr. Rush, 1st April, 1824. Letter from the British Secretary of Foreign Affairs to Mr. Addington; communicated by Mr. Addington.

Act of Parliament, of 31st March, 1824, declaring the African Slave Trade piracy.

*Mr. Rush to Mr. Adams.*

LONDON, 1st April, 1824.

SIR : I have now the honor to transmit, in the shape in which it has received the royal assent, a copy of the British act of Parliament making the slave trade piracy. It was sent to me to-day by Mr. Huskisson, with a note, of which a copy is enclosed. It passed the House of Lords the day before yesterday, by an unanimous vote.

In addition to the explanation which Mr. Huskisson afforded me, of the clause at the end of the act, both himself and Mr. Secretary Canning have since stated to me, that a further reason for it was, that a consolidation of this act with all the other British slave trade laws and regulations, is in contemplation, perhaps in the course of the present session of Parliament, with a view to give the British naval officers one comprehensive code of instructions under them.

I have the honor to be, with very great respect, your obedient servant,

RICHARD RUSSELL.

Hon. J. Q. ADAMS, Secretary of State.

*Mr. Huskisson to Mr. Rush.*

Board of Trade, April 1st, 1824.

MR DEAR SIR : I have the satisfaction to transmit to you three copies of the bill, which received the Royal assent yesterday, for declaring slave-trading to be piracy.

These copies are, the bill as printed for the House of Lords, in which shape, as no amendment was made in that House, it received the royal assent; but some few days will elapse before it can be published in the usual form, among the laws of the present session.

I have the honor to be, dear sir, your very faithful obedient servant,

W. HUSKISSON.

RICHARD RUSSELL, &c. &c.

*Mr. Canning to Mr. Addington.*

Foreign Office, April 2, 1824.

SIR : I herewith enclose to you several copies of the bill which has now passed into a law, affixing to the crime of carrying on the slave trade by British subjects, the pains and penalties attached to piracy.

You will lose no time in calling on Mr. Adams, and communicating this act of Parliament to him, in proof of the anxiety of his Majesty to carry into early and effectual execution the convention lately concluded on this subject by the United States; and, with reference to that clause in the act which provides for possible alteration in the course of the session, you will explain to the American Minister that this clause has in view no change

in the act, but merely its consolidation with all the other slave trade regulations in one general act, which is intended to be brought in before the close of this session of Parliament, in order that the British officers may be furnished with one comprehensive code of instruction on this subject.

I have the honor to be, &c. &c.

GEORGE CANNING.

HENRY UNWIN ADDINGTON, Esq. &c.

AN ACT for the more effectual suppression of the African Slave Trade.

March 31, 1824.

Whereas it is expedient to make further provision for the suppression of the African slave trade, by enacting that persons committing the offences hereinafter specified, shall be deemed and adjudged to be guilty of piracy: Be it therefore enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That, if any subject or subjects of his Majesty, or any person or persons residing or being within any of the dominions, forts, settlements, factories, or territories, now or hereafter belonging to his Majesty, or being in his Majesty's occupation or possession, or under the government of the United Company of Merchants of England trading to the East Indies, shall, except in such cases as are, in and by the laws now in force, permitted, after the first day of January, one thousand eight hundred and twenty-five, upon the high seas, or in any haven, river, creek, or place, where the admiral has jurisdiction, knowingly and wilfully carry away, convey, or remove, or aid or assist in carrying away, conveying or removing, any person or persons as a slave or slaves, or for the purpose of his, her, or their, being imported or brought as a slave or slaves, into any island, colony, country, territory, or place, whatsoever, or for the purpose of his, her, or their, being sold, transferred, used, or dealt with as a slave or slaves; or shall, after the said first day of January, one thousand eight hundred and twenty-five, except in such cases as are, in and by the laws now in force, permitted, upon the high seas, or within the jurisdiction aforesaid, knowingly and wilfully ship, embark, receive, detain, or confine, or assist in shipping, embarking, receiving, detaining, or confining, on board any ship, vessel, or boat, any person or persons, for the purpose of his, her, or their, being carried away, conveyed, or removed, as a slave or slaves, or for the purpose of his, her, or their, being imported or brought, as a slave or slaves, into any island, colony, country, territory, or place, whatsoever, or for the purpose of his, her, or their, being sold, transferred, used, or dealt with, as a slave or slaves, then, and in every such case, the person or persons so offending, shall be deemed and adjudged guilty of piracy, felony, and robbery; and, being convicted thereof, shall suffer death without benefit of clergy, and loss of lands, goods, and chattels, as pirates, felons, and robbers upon the seas, ought to suffer.

II. Provided always, and it is hereby further enacted and declared, That nothing in this act contained, making and declaring the aforesaid offences to be piracies, felonies, and robberies, shall be construed to repeal, annul, or alter, the provisions and enactments of any other act or acts contained, imposing forfeitures and penalties, or either of them, upon the same offences, or to repeal, annul, or alter, the remedies given for the recovery thereof; but that the said provisions and remedies shall, in all respects, be deemed and taken to be and remain in full force, as they existed immediately before the passing of this act: Provided, also, that nothing herein contained shall be construed to repeal, annul, or alter, any of the enactments or provisions contained in an act passed in the fifty-first year of his late Majesty, intitled "An act for rendering more effectual an act made in the forty-seventh year of his Majesty's reign, entitled 'An act for the abolition of the slave trade;'" except so far as such enactments or provisions are altered or varied by this act, but that the said act shall, in all other respects, remain in full force and effect.

III. And be it further enacted and declared, That all and every the offences, hereinbefore specified, shall and may be inquired of, either according to the ordinary course of law, and the provisions of an act passed in the twenty-eighth year of the reign of King Henry the Eighth, intitled "An act for Pirates;" or according to the provisions of an act passed in the forty-sixth

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year of the reign of his late Majesty King George the Third, entitled "An act for the more speedy trial of offences committed in distant parts upon the high seas."

IV. And be it further enacted, That this act may be amended, altered, or repealed, by any act or acts to be passed in this present session of Parliament.

### IN SENATE,

*Saturday, May 8, 1824.*

Mr. Barbour, from the Committee on Foreign Relations, to whom was referred, on the 30th April, the Message of the President of the United States of that date, together with the Convention with Great Britain, reported the same without amendment. The said Convention was read the second time.

*Wednesday, May 12, 1824.*

The Senate proceeded to consider, as in committee of the whole, the Convention with Great Britain, concluded at London, the 13th March, 1824; and *Ordered*, That it lie on the table.

*Thursday, May 13, 1824.*

The Senate resumed, as in committee of the whole, the consideration of the Convention between the United States and Great Britain, and Mr. Barbour proposed the following amendment thereto, which was read:

"Art. XII. This Convention shall continue in force until one of the parties shall have declared its intention to renounce it; which declaration shall be made at least six months beforehand."

*Monday, May 17, 1824.*

The Senate resumed, as in committee of the whole, the consideration of the Convention with Great Britain, together with the amendment proposed on the 13th instant; and, on motion, *Ordered*, That the further consideration thereof be postponed to, and made the order of the day for, Wednesday next.

### IN SENATE OF THE UNITED STATES,

*May 21, 1824.*

*Message from the President of the United States.*

TO THE SENATE OF THE U. STATES:

Apprehending, from the delay in the decision, that some difficulty exists with the Senate, respecting the ratification of the Convention lately concluded with the British Government for the suppression of the slave trade, by making it piratical, I deem it proper to communicate, for your consideration, such views as appear to me to merit attention. Charged, as the Executive is, and I have long been, with maintaining the political relations between the United States and other nations, I consider it my duty, in submitting for your advice and consent, as to the ratification, any treaty or convention which has been agreed on with another power, to explain, when the occasion requires it, all the reasons which induced the measure. It is by such full and frank explanation, only, that the Senate can be enabled to discharge the high trust reposed in them with advantage to their country. Having the instrument before them, with the views which guided the Executive in forming it, the Senate will possess all the light necessary to a sound decision.

By an act of Congress of 15th May, 1820, the slave trade, as described by that act, was made piratical, and all such of our citizens as might be found engaged in that trade, were subjected, on conviction thereof, by the circuit courts of the United States, to capital punishment. To communicate more distinctly the import of that act, I refer to its fourth and fifth sections, which are in the following words:

"Sec. 4. And be it further enacted, That, if any citizen of the United States, being of the crew or ship's company of any foreign ship or vessel engaged in the slave trade, or any person whatever, being of the crew or ship's company of any ship or vessel, owned in the

whole or part, or navigated for, or in behalf of, any citizen or citizens of the United States, shall land from any such ship or vessel, and on any foreign shore seize, any negro or mulatto, not held to service or labor by the laws of either of the states or territories of the United States, with intent to make such negro or mulatto a slave, or shall decoy, or forcibly bring, or carry, or shall receive, such negro or mulatto, on board any such ship or vessel, with intent as aforesaid, such citizen or person shall be adjudged a pirate, and on conviction thereof, before the circuit court of the United States for the district wherein he may be brought or found, shall suffer death.

"Sec. 5. And be it further enacted, That, if any citizen of the United States, being of the crew or ship's company of any foreign ship or vessel, engaged in the slave trade, or any person whatever, being of the crew or ship's company of any ship or vessel, owned wholly or in part, or navigated for, or in behalf of, any citizen or citizens of the United States, shall forcibly confine or detain, or aid and abet in forcibly confining or detaining, on board such ship or vessel, any negro or mulatto, not held to service by the laws of either of the States or Territories of the United States, with intent to make such negro or mulatto a slave, or shall, on board any such ship or vessel, offer or attempt to sell, as a slave, any negro or mulatto, not held to service as aforesaid, or shall, on the high seas, or any where on tide water, transfer or deliver over, to any other ship or vessel, any negro or mulatto, not held to service, as aforesaid, with intent to make such negro or mulatto a slave, or shall land, or deliver on shore from on board any such ship or vessel, any such negro or mulatto, with intent to make sale of, or having previously sold, such negro or mulatto as a slave, such citizen or person shall be adjudged a pirate; and, on conviction thereof, before the Circuit Court of the United States for the district wherein he may be brought or found, shall suffer death."

And on the 28th February, 1823, the House of Representatives, by a majority of 131 to 9, passed a resolution to the following effect:

"Resolved, That the President of the United States be requested to enter upon, and prosecute, from time to time, such negotiations with the several maritime powers of Europe and America, as he may deem expedient, for the effectual abolition of the African slave trade, and its ultimate denunciation as Piracy under the law of nations, by the consent of the civilized world."

By the act of Congress above referred to, whereby the most effectual means that could be devised were adopted, for the extirpation of the slave trade, the wish of the United States was explicitly declared, that all nations might concur in a similar policy. It could only be by such concurrence that the great object could be accomplished; and it was by negotiation and treaty, alone, that such concurrence could be obtained, commencing with one power, and extending it to others. The course, therefore, which the Executive, who had concurred in the act, had to pursue, was distinctly marked out for it. Had there, however, been any doubt respecting it, the resolution of the House of Representatives, the branch which might, with strict propriety, express its opinion, could not fail to have removed it.

By the tenth article of the treaty of peace between the United States and Great Britain, concluded at Ghent, it was stipulated that both parties should use their best endeavors to accomplish the abolition of the African slave trade. This object has been, accordingly, pursued by both Governments, with great earnestness, by separate acts of legislation, and by negotiation, almost uninterrupted, with the purpose of establishing a concert between them, in some measure, which might secure its accomplishment.

Great Britain, in her negotiations with other powers, had concluded treaties with Spain, Portugal, and the



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Netherlands, in which, without constituting the crime as piracy, or classing it with crimes of that denomination, the parties had conceded to the naval officers of each other, the right of search and capture of the vessels of either, that might be engaged in the slave trade, and had instituted courts consisting of judges, subjects of both parties, for the trial of the vessels so captured.

In the negotiations with the United States, Great Britain had earnestly and repeatedly pressed on them the adoption of similar provisions. They had been resisted by the Executive, on two grounds: one, that the constitution of mixed tribunals was incompatible with their constitution; and the other, that the concession of the right of search in time of peace, for an offence not piratical, would be repugnant to the feelings of the nation, and of dangerous tendency. The right of search is the right of war, of the belligerent towards the neutral. To extend it, in time of peace, to any object whatever, might establish a precedent which might lead to others with some powers, and which, even if confined to the instance specified, might be subject to great abuse.

Animated by an ardent desire to suppress this trade, the United States took stronger ground, by making it, by the act above referred to, piratical; a measure more adequate to the end, and free from many of the objections applicable to the plan which had been proposed to them. It is this alternative which the Executive, under the sanctions and injunctions above stated, offered to the British Government, and which that Government has accepted. By making the crime piracy, the right of search attaches to the crime, and which, when adopted by all nations, will be common to all; and that it will be so adopted, may fairly be presumed, if steadily persevered in by the parties to the present convention. In the mean time, and with a view to a fair experiment, the obvious course seems to be, to carry into effect, with every power, such treaty as may be made with each in succession.

In presenting this alternative to the British Government, it was made an indispensable condition, that the trade should be made piratical by act of Parliament, as it had been by an act of Congress. This was provided for in the convention, and has since been complied with. In this respect, therefore, the two nations rest on the same ground. Suitable provisions have also been adopted to protect each party from the abuse of the power granted to the public ships of the other. Instead of subjecting the persons detected in the slave trade to trial by the courts of the captors, as would be the case if such trade was piracy by the law of nations, it is stipulated, that, until that event, they shall be tried by the courts of their own country only. Hence, there could be no motive for an abuse of the right of search, since such abuse could not fail to terminate to the injury of the captor.

Should this convention be adopted, there is every reason to believe, that it will be the commencement of a system destined to accomplish the entire abolition of the slave trade. Great Britain, by making it her own, confessedly adopted, at the suggestion of the United States, and being pledged to propose and urge its adoption, by other nations, in concert with the United States, will find it for her interest to abandon the less effective system of her previous treaties with Spain, Portugal, and the Netherlands, and to urge on those and other powers their accession to this. The crime will then be universally proscribed as piracy, and the traffic be suppressed forever. Other considerations of high importance urge the adoption of this convention. We have at this moment pending with Great Britain, sundry other negotiations, intimately connected with the welfare, and even with the peace, of our Union. In one of them, nearly a third part of the territory of the State of Maine is in contestation. In another, the navigation of the St. Lawrence, the admission of consuls into the British islands, and a system of commercial intercourse between the United States and all the British possessions in this he-

misphere, are subjects of discussion. In a third, our territorial, and other rights upon the Northwest Coast, are to be adjusted; while a negotiation on the same interest is opened with Russia. In a fourth, all the most important convertible points of maritime law, in time of war, are brought under consideration; and, in the fifth, the whole system of South American concerns, connected with a general recognition of South American Independence, may, again, from hour to hour, become, as it has already been, an object of concerted operations of the highest interest to both nations, and to the peace of the world.

It cannot be disguised, that the rejection of this convention could not fail to have a very injurious influence on the good understanding between the two governments on all these points. That it would place the Executive administration under embarrassment, and subject it, the Congress, and the nation, to the charge of insincerity, respecting the great result of the final suppression of the slave trade, and that its first and indispensable consequence will be, to constrain the Executive to suspend all further negotiation with every European and American power, to which overtures have been made, in compliance with the resolution of the House of Representatives, of 28th February, 1823, must be obvious. To invite all nations, with the statute of piracy in our hands, to adopt its principles as the law of nations, and yet to deny to all the common rights of search for the pirate, whom it would be impossible to detect, without entering and searching the vessel, would expose us, not simply to the charge of inconsistency.

It must be obvious, that the restriction of search for pirates to the African coast, is incompatible with the idea of crime. It is not doubted, also, if the convention is adopted, that no example of the commission of that crime, by the citizens or subjects of either power, will ever occur again. It is believed, therefore, that this right, as applicable to piracy, would not only extirpate the trade, but prove altogether innocent in its operation.

In further illustration of the views of Congress on this subject, I transmit the Senate extracts from two resolutions of the House of Representatives, one of the 9th February, 1821, the other of 12th April, 1822. I transmit, also, a letter from the Charge d'Affaires of the British Government, which shews the deep interest which that Government takes in the ratification of the treaty.

JAMES MONROE.

*Washington, 21st May, 1824.*

Extract of a report of the 9th of February, 1821, to the House of Representatives, by the Committee to which had been referred so much of the President's message as relates to the slave trade, and to which were referred the two messages of the President, transmitting, in pursuance of the resolution of the House of Representatives, of the 4th of December, a report of the Secretary of State, and enclosed documents relating to the negotiation for the suppression of the slave trade.

"The detestable crime of kidnapping the unoffending inhabitants of one country, and chaining them to slavery in another, is marked with all the atrociousness of piracy, and, as such, it is stigmatized and punishable by our own laws.

"To efface this reproachful stain from the character of civilized mankind, would be the proudest triumph that could be achieved in the cause of humanity. On this subject, the United States, having led the way, owe it to themselves to give their influence and cordial co-operation to any measure that will accomplish the great and good purpose; but this happy result, experience has demonstrated, cannot be realized by any system, except a concession by the maritime powers to each other's ships of war of a qualified right of search.

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"If this object was generally attained, it is confidently believed that the active exertions of even a few nations, would be sufficient entirely to suppress the slave trade."

Extract from a report made April 12, 1822, by the Committee on the Suppression of the Slave Trade, to whom had been referred a resolution of the House of Representatives, of the 15th of January preceding, instructing them to inquire whether the laws of the U. States, prohibiting that traffic, have been duly executed; also, into the general operation thereof, and if any defects exist in those laws, to suggest adequate remedies therefor, and to whom many memorials have been referred touching the same subject.

"But the conclusion to which your Committee has arrived, after consulting all the evidence within their reach, is, that the African slave trade now prevails to a great extent, and that its total suppression can never be effected by the separate and disunited efforts of one or more of the states: and, as the resolution to which this report refers, requires the suggestion of some remedy for the defects, if any exist, in the system of laws for the suppression of this traffic, your committee beg leave to call the attention of the House to the report and accompanying documents submitted to the last Congress, by the Committee on the Slave Trade, and to make the same a part of this report. That report proposes, as a remedy for the existing evils of the system, the concurrence of the United States with one or all the maritime powers of Europe, in a modified and reciprocal right of search on the African coast, with a view to the total suppression of the slave trade.

"It is with great delicacy that the committee have approached this subject, because they are aware that the remedy which they have presumed to recommend to the consideration of the House, requires the exercise of a power of another department of this government, and that objections to the exercise of this power, in the mode here proposed, have hitherto existed in that department.

"Your committee are confident, however, that these objections apply rather to a particular proposition for the exchange of the right of search, than to that modification of it which presents itself to your committee. They contemplate the trial and condemnation of such American citizens as may be found engaged in this forbidden trade, not by mixed tribunals, sitting in a foreign country, but by existing courts, of competent jurisdiction, in the United States; they propose the same disposition of the captured Africans, now authorized by law, and, least of all, their detention in America.

"They contemplate an exchange of this right, which shall be, in all respects, reciprocal—an exchange which, deriving its sole authority from treaty, would exclude the pretension, which no nation, however, has presumed to set up, that this right can be derived from the law of nations; and, further, they have limited it in their conception of its application, not only to certain latitudes, and to a certain distance from the coast of Africa, but to a small number of vessels to be employed by each power, and to be previously designated. The visit and search, thus restricted, it is believed, would ensure the co-operation of one great maritime power in the proposed exchange, and guard it from the danger of abuse.

"Your committee cannot doubt that the people of America have the intelligence to distinguish between the right of searching a neutral on the high seas, in time of war, claimed by some belligerents, and that mutual, restricted, and peaceful concession, by treaty, suggested by your committee, and which is demanded in the name of suffering humanity."

Mr. Addington to the Secretary of State.

WASHINGTON, May 16, 1824.

Sir: Nearly three weeks have now elapsed since I

had the honor of making my first communication to you on the subject of the convention, concluded on the 13th of March last, between the British government and the American Envoy in London.

At that time, in pursuance of instructions conveyed to me from his Majesty's Secretary of State for Foreign Affairs, I made known to you the earnest desire of the British government, that no time should be lost by that of the United States in proceeding to the ratification of that instrument, in order that it might be returned to England in time to have it submitted to Parliament prior to its prorogation, which was expected to take place at an early period.

I flattered myself, sir, that the wish, thus anxiously expressed by me on behalf of his Majesty's Government, would meet with a corresponding order on the part of all the authorities to whom it was addressed, especially considering that the project of the convention originated with this Government, at the instigation of the House of Representatives, and that his Majesty's ministers had not hesitated an instant to comply with the preliminary act desired by the President, of procuring the passage of a bill through Parliament, denouncing as piracy by statute, the African slave trade, when exercised by British subjects.

This consideration, sir, necessarily precludes my entertaining a doubt as to the eventual ratification of the convention by this government, and I therefore attribute the delay which has hitherto occurred, to the pressure of other business, which it would have been found inconvenient to postpone.

I think it my duty, however, to press once more, and in the most earnest manner, upon your attention, the anxiety of the British government on this subject.

Of this anxiety, a most convincing proof may be found, in the circumstance of an extra packet having been dispatched, by them, for the sole purpose of conveying to this country the act of Parliament declaring the slave trade piracy, immediately after its passage through both Houses, in order that the want of that document might not oppose any obstacle to the sanction of the convention, by this Government.

Pernaps, sir, you will allow me to add, that I now detain that same packet for the express purpose of re-conveying the instrument in question, as soon as ratified, with the utmost possible celerity, to England.

I have the honor to be, with distinguished consideration, sir, your most obedient humble servant,

H. U. ADDINGTON.

Hon. JOHN Q. ADAMS,  
Secretary of State.

IN SENATE—FRIDAY, May 21, 1824.

Agreeably to the order of the day, the Senate resumed, as in committee of the whole, the consideration of the Convention with Great Britain, together with the amendment proposed on the 13th instant; and the amendment having been modified, as follows:

*Provided*, That an article be added, whereby it shall be free to either of the parties, at any time, to renounce the said convention, giving six months' notice beforehand:

On the question to agree thereto, it was determined in the affirmative, yeas 36, nays 2.

Those who voted in the affirmative, are, Messrs. Barbour, Barton, Bell, Benton, Branch, Brown, Clayton, Eaton, Edwards, Elliott, Findlay, Gaillard, Hayne, Holmes, of Maine, Holmes, of Mississippi, Jackson, Johnson, of Kentucky, Henry Johnson, Josiah S. Johnston, Kelly, King, of Alab. King, of N. Y. Knight, Lloyd, of Mass. Lowrie, Melvaine, Macon, Mills, Palmer Parrott, Ruggles, Seymour, Taylor, of Va. Thomas, Van Dyke, Williams.

Those who voted in the negative, are, Messrs. Chandler and D'Wolf.

And no further amendment having been made, the Convention was reported to the Senate.

On the question to concur in the amendment made in committee of the whole, to wit:

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Insert at the end of the resolution for the ratification of the Convention,

Provided, That an article be added, whereby it shall be free to either of the parties, at any time, to renounce the said Convention, giving six months' notice beforehand,

It was determined in the affirmative, yeas 34, nays 2.

Those who voted in the affirmative, are, Messrs. Barbour, Barton, Bell, Benton, Branch, Brown, Clayton, Eaton, Edwards, Elliott, Findlay, Gaillard, Hayne, Holmes of Maine, Holmes of Miss., Jackson, Johnson of Ken., Josiah S. Johnston, Kelly, King of Alab. King of N. Y. Knight, Lloyd of Mass. Lowrie, Melville, Macon, Mills, Parrott, Ruggles, Seymour, Taylor of Va. Thomas, Van Dyke, and Williams.

Those who voted in the negative, are, Messrs. Chandler and D'Wolf.

Ordered, That the Convention pass to a third reading.

SATURDAY, MAY 22, 1824.

The Convention with Great Britain was read the third time; whereupon, Mr. Barbour submitted the following motion for consideration, which was read:

Resolved, Two-thirds of the Senators present concurring therein, That the Senate do advise and consent to the ratification of the Convention made and concluded at London, the thirtieth day of March, one thousand eight hundred and twenty-four, between the United States of America and the King of the United Kingdom of Great Britain and Ireland: Provided, That an article be added, whereby it shall be free to either of the parties, at any time, to renounce the said Convention, giving six months' notice beforehand.

On motion, by Mr. Macon, to postpone the further consideration of the Convention to the first Monday in December next, it was determined in the negative, yeas 16, nays 26.

The yeas and nays being desired by one-fifth of the Senators present,

Those who voted in the affirmative, are, Messrs. Bell, Brown, Chandler, D'Wolf, Dickerson, Elliott, Gaillard, Holmes of Maine, Knight, Lowrie, Macon, Ruggles, Smith, Thomas, Van Buren, and Ware.

Those who voted in the negative, are, Messrs. Barbour, Barton, Benton, Branch, Clayton, Eaton, Edwards, Findlay, Hayne, Holmes of Miss. Jackson, Johnson of Ken. Henry Johnson, Josiah S. Johnston, Kelly, King of N. Y. Lloyd of Mass. Melville, Mills, Noble, Parrott, Seymour, Taylor of Ind. Taylor of Va. Van Dyke, and Williams.

On motion by Mr. Josiah S. Johnston, to strike out of the Convention, art. 1, line 4, the words "of America"—On the question "Shall these words stand as part of the article?" it was determined in the negative, yeas 23, nays 20.

Those who voted in the affirmative, are, Messrs. Barbour, Barton, Clayton, Eaton, Edwards, Findlay, Hayne, Holmes of Miss. Jackson, Johnson of Ken. Henry Johnson, Kelly, King of N. Y. Lloyd of Mass. Melville, Mills, Noble, Parrott, Seymour, Taylor of Ind. Taylor of Va. Van Dyke, and Williams.

Those who voted in the negative, are, Messrs. Bell, Benton, Branch, Brown, Chandler, D'Wolf, Dickerson, Elliott, Gaillard, Holmes of Maine, Josiah S. Johnston, King of Alabama, Knight, Lowrie, Macon, Ruggles, Smith, Thomas, Van Buren, and Ware.

On motion of Mr. Josiah S. Johnston, to strike out, art. 1, line 5, the words "and of the West Indies"—

On the question "Shall these words stand as part of the article?" it was determined in the affirmative, yeas 29, nays 14.

Those who voted in the affirmative, are, Messrs. Barbour, Barton, Benton, Brown, Clayton, Eaton, Edwards, Findlay, Hayne, Holmes of Miss. Jackson, Johnson of Ken. Henry Johnson, Kelly, King of N. Y. Knight, Lloyd of Mass. Lowrie, Melville, Macon, Mills, Noble, Parrott, Ruggles, Seymour, Taylor of Ind. Taylor of Va. Van Dyke, and Williams.

Those who voted in the negative, are, Messrs. Bell, Branch, Chandler, D'Wolf, Dickerson, Elliott, Gaillard, Holmes of Maine, Josiah S. Johnston, King of Alab. Smith, Thomas, Va. Buren, and Ware.

A motion was made by Mr. Josiah S. Johnston, to strike out the second article; and, on the question "Will the Senate advise and consent to the ratification of this article?" it was determined in the negative, yeas 27, nays 16.

Those who voted in the affirmative, are, Messrs. Barbour, Barton, Benton, Branch, Clayton, Eaton, Edwards, Findlay, Hayne, Holmes of Miss. Jackson, Johnson of Ken. Henry Johnson, Kelly, King of N. Y. Knight, Lloyd of Mass. Mel-

vaine, Mills, Noble, Parrott, Ruggles, Seymour, Taylor of Ind. Taylor of Va. Van Dyke, and Williams.

Those who voted in the negative, are, Messrs. Bell, Brown, Chandler, D'Wolf, Dickerson, Elliott, Gaillard, Holmes of Maine, J. S. Johnston, King of Alab. Lowrie, Macon, Smith, Thomas, Van Buren, and Ware.

On motion, to strike out of the 7th article the following words:

"And it is further agreed, that any individual, being a citizen or subject of either of the two contracting parties, who shall be found on board any vessel, not carrying the flag of the other party, nor belonging to the subjects or citizens of either, but engaged in the illicit traffic of slaves, and seized or condemned on that account, by the cruisers of the other party, under circumstances which, by involving such individual in the guilt of slave trading, would subject him to the penalties of piracy, he shall be sent for trial before the competent court in the country to which he belongs, and the reasonable expenses of any witnesses belonging to the captured vessel, in proceeding to the place of trial, during their detention there, and for their return to their own country, or to their station in its service, shall, in every such case, be allowed by the court, and defrayed by the country in which the trial takes place."

On the question, "Shall these words stand as part of the article?" it was determined in the negative, yeas 22, nays 21.

Those who voted in the affirmative, are, Messrs. Barton, Benton, Clayton, Eaton, Edwards, Findlay, Hayne, Holmes of Miss. Jackson, Johnson of Ken. Henry Johnson, Kelly, King of N. Y. Knight, Lloyd of Mass. Lowrie, Mills, Noble, Parrott, Seymour, Taylor of Va. Van Dyke, and Williams.

Those who voted in the negative, are, Messrs. Barbour, Bell, Branch, Brown, Chandler, D'Wolf, Dickerson, Elliott, Gaillard, Holmes of Maine, Josiah S. Johnston, King of Alab. Lloyd of Mass. Lowrie, Macon, Ruggles, Smith, Taylor of Ind. Thomas, Van Buren, and Ware.

On the question to agree to the resolution, amended accordingly, for the ratification of the Convention,

It was determined in the affirmative, yeas 29, nays 13.

Those who voted in the affirmative, are, Messrs. Barbour, Barton, Benton, Branch, Brown, Clayton, Eaton, Edwards, Findlay, Hayne, Holmes of Miss. Jackson, Johnson of Ken. Henry Johnson, Josiah S. Johnston, Kelly, King of Alab. King of N. Y. Knight, Lloyd of Mass. Lowrie, Melville, Mills, Parrott, Seymour, Taylor of Ind. Taylor of Va. Van Dyke, and Williams.

Those who voted in the negative, are, Messrs. Bell, Chandler, D'Wolf, Dickerson, Elliott, Gaillard, Holmes of Maine, Macon, Ruggles, Smith, Thomas, Van Buren, and Ware.

So it was resolved, two-thirds of the Senators present concurring therein, That the Senate do advise and consent to the ratification of the Convention made and concluded at London, the 13th day of March, one thousand eight hundred and twenty-four, between the United States of America and the King of the United Kingdom of Great Britain and Ireland, with the exception of the words "of America," in line four, of the first article; with the exception of the second article; and of the following words in the seventh article: "And it is further agreed, that any individual, being a citizen or subject of either of the two contracting parties, who shall be found on board any vessel, not carrying the flag of the other party, nor belonging to the subjects or citizens of either, but engaged in the illicit traffic of slaves, and seized or condemned on that account, by the cruisers of the other party, under circumstances which, by involving such individual in the guilt of slave trading, would subject him to the penalties of piracy, he shall be sent for trial before the competent court in the country to which he belongs, and the reasonable expenses of any witnesses, belonging to the capturing vessel, in proceeding to the place of trial, during their detention there, and for their return to their own country, or to their station in its service, shall, in every such case, be allowed by the court, and defrayed by the country in which the trial takes place." Provided, That an article be added, whereby it shall be free to either of the parties, at any time, to renounce the said Convention, giving six months' notice beforehand.

Mr. Adams to Mr. Rush.

DEPARTMENT OF STATE,  
Washington, 29th May, 1824.

SIR: The convention between the United States and

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Great Britain, for the suppression of the African slave trade, is herewith transmitted to you, with the ratification on the part of the United States, under certain modifications and exceptions, annexed as conditions to the advice and consent of the Senate to its ratification.

The participation of the Senate of the United States in the final conclusion of all treaties to which they are parties, is already well known to the British government; and the novelty of the principles established by the convention, as well as their importance, and the requisite assent of two-thirds of the Senators present, to the final conclusion of every part of a ratified treaty, will explain the causes of its ratification under this form. It will be seen that the great and essential principles which form the basis of the compact are admitted, to their full extent, in the ratified part of the convention. The second article, and the portion of the seventh which it is proposed to expunge, are unessential to the plan, and were not included in the project of convention transmitted to you from hence. They appear, indeed, to be, so far as concerned the United States, altogether inoperative, since they could not confer the power of capturing slave traders under the flag of a third party—a power not claimed, either by the United States, or Great Britain, unless by treaty, and the United States having no such treaty with any other power. It is presumed that the bearing of those articles was exclusively upon the flags of those other nations with which Great Britain has already treaties for the suppression of the slave trade, and that, while they give an effective power to the officers of Great Britain, they conferred none upon those of the United States.

The exception of the coast of America from the seas upon which the mutual power of capturing the vessels under the flag of either party may be exercised, had reference, in the views of the Senate, doubtless, to the coast of the United States. On no part of that coast, unless within the Gulf of Mexico, is there any probability that slave-trading vessels will ever be found. The necessity for the exercise of the authority to capture is, therefore, no greater, than it would be upon the coast of Europe. In South America, the only coast to which slave-traders may be hereafter expected to resort, is that of Brazil, from which, it is to be hoped, they will shortly be expelled by the laws of the country.

The limitation by which each party is left at liberty to renounce the convention, by six months' notice to the other, may, perhaps, be useful in reconciling other nations to the adoption of its provisions. If the principles of the convention are to be permanently maintained, this limitation must undoubtedly be abandoned; and when the public mind shall have been familiarized to the practical operation of the system, it is not doubted that this reservation will, on all sides, be readily given up.

In giving these explanations to the British Government, you will state that the President was fully prepared to have ratified the convention without alteration, as it had been signed by you. He is aware that the conditional ratification leaves the British government at liberty to concur therein, or to decline the ratification altogether; but he will not disguise the wish, that, such as it is, it may receive the sanction of Great Britain, and be carried into effect. When the concurrence of both governments has been at length obtained, by exertions so long and so anxiously continued, to principles so important, and for purposes of so high and honorable a character, it would prove a severe disappointment to the friends of freedom and of humanity, if all prospect of effective concert between the two nations, for the extirpation of this disgrace to civilized man, should be lost by differences of sentiment, in all probability transient, upon unessential details.

Should the convention, as ratified on the part of the United States, be likewise ratified on the part of Great Britain, you will exchange the ratifications, and forth-

with transmit the British ratified copy to this place. On exchanging the ratifications, a certificate of that act is usually executed under the hand and seal of the persons performing it, and mutually delivered. A copy of the form of that used in exchanging the ratifications of the convention of 20th October, 1818, is herewith enclosed, and it appears to be the form generally used on such occasions by the British government. You will transmit the certificate exchanged with the British ratification. To complete the documents belonging to the negotiation, a copy of the full power of the British Plenipotentiaries, and of the protocol of the third conference, are yet to be forwarded to us.

By the ninth article of the convention, it is provided that copies of it, "and of the laws of both countries, actually in force, for the prohibition and suppression of the slave trade, shall be furnished to every commander of the National vessels of either party, charged with the execution of those laws." The fulfilment of this article will require the continued and particular attention of both governments. I enclose, herewith, a printed pamphlet, containing all the laws of the United States on this subject, now in force. It is stated in your despatches to have been the intention of the British government to consolidate into one act, during the present session of Parliament, all the British laws relating to the subject; and perhaps Congress, at the next session, may deem it expedient to do the same here. At all events, you will not fail to forward to me a copy of all the laws in force, which come within the purview of the convention, and although not expressly stipulated in that instrument, you will suggest to the British government, that copies of the *Instructions* relating to this object, given by each of the parties to its own naval officers, should be communicated to the other, and furnished to all the officers, on either side, entrusted with the execution of the laws made by this convention, common to both. Lists of the vessels of either party, and of their commanders, thus instructed, might also facilitate the accomplishment of the great purposes of both, and harmonize the practical operation of a system, not less important by the magnanimous end to be obtained, than by the novelty of the means adopted for its accomplishment.

The conclusion of this convention has been highly satisfactory to the President, whose entire approbation of the course pursued by you in the negotiation of it, I am instructed to make known to you. He indulges the hope that it will, even as now modified, contribute largely to two objects of high importance: to the friendly relations between the two countries, and to the general interests of humanity. He sees in it, with much pleasure, that spirit of mutual accommodation, so essential to the continuance and promotion of their harmony and good understanding, and welcomes it as an earnest of the same spirit, in accomplishing the adjustment of the other interesting objects in negotiation between the two parties.

I am, with great respect, sir, your very humble and obedient servant,

JOHN QUINCY ADAMS.

RICHARD RUSH, *Envoy Extraordinary  
and Minister Plenipotentiary U. S. London.*

*Extract of a letter from Mr. Rush to Mr. Adams, dated  
LONDON, June 28th, 1824.*

"I have this day had the honor to receive your despatch, No. 79, of the 29th of May, with the Convention for the Suppression of the Slave Trade, as ratified on the part of the United States, under certain modifications and exceptions, annexed as conditions to the advice and consent of the Senate to its ratification.

"I shall proceed, immediately, to lay the Convention, as thus ratified, before this Government, and endeavor to recommend to its acceptance the modifications and

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exceptions, now a part of the instrument, by all the suggestions and arguments with which your despatch has supplied me."

*Extract of a letter from Mr. Rush to Mr. Adams,*  
*dated*

LONDON, July 5, 1824.

"I have had one interview with Mr. Secretary Canning, since the 28th of last month, on the business of the Convention for the Suppression of the Slave Trade; but, as yet, am not able to communicate any of the sentiments of this Government in relation to it. You shall hear them from me at the earliest moment after I am, myself, apprised of them."

*Extracts of a letter from Mr. Rush to Mr. Adams,*  
*dated*

LONDON, August 9, 1824.

"I have the honor to inform you that Mr. Secretary Canning has given me to understand, in an interview which I have this day had with him, that this Government finds itself unable to accede to the Convention for the Suppression of the Slave Trade, with the alterations and modifications that have been annexed to its ratification on the part of the United States. He said that none of these alterations or modifications would have formed insuperable bar to the consent of Great Britain, except that which had expunged the word America from the first article, but that this was considered insuperable."

"The reasons which Mr. Canning assigned for this determination on the part of Great Britain, I forbear to state, as he has promised to address a communication, in writing, to me, upon the subject, where they will be seen more accurately, and at large; but to guard against any delay in my receiving that communication, I have thought it right not to lose any time in thus apprising you, for the President's information, of the result."

*Mr. Rush to Mr. Adams.*

LONDON, August 30, 1824.

SIR: I had the honor to apprise you, in my letter of the 9th inst. that Mr. Secretary Canning had informed me, in an interview that I had with him on that day, that this Government would decline acceding to the convention for the suppression of the slave trade, as ratified in May, on the part of the United States, and that he promised to address me an official note upon this subject.

This note I received on Saturday the 28th instant, the delay having arisen from an attack of fever, under which he has been laboring. A copy of it is, herewith, enclosed.

I lost no time, after receiving your instructions of the 29th of May, in laying the matter of them before Mr. Canning, having, on the 30th of June, written him a note to request an interview, for the purpose of executing this duty, which he granted me, at the Foreign Office, on the first of July. It was in that interview that I laid fully before him all the considerations and arguments for the adoption of the treaty, as ratified at Washington, with which your above instructions had charged me, omitting no part of them. He gave no opinion at that time, on the course which this Government would be likely to pursue, but, afterwards, on the 9th of August, informed me, as I have heretofore mentioned, that the omission of the words, "and America," from the first article of the treaty, was considered, by Great Britain, as an insuperable objection to its acceptance on her part, and to this effect is the note which I now transmit from him. A copy of my answer to it, dated to-day, is enclosed.

It may be proper for me to state, that, whilst Mr. Canning, in the interview I had with him on the ninth of August, was assigning the reasons of this Government,

as they will now be seen in his note, for not acceding to the treaty, took occasion to remark, that Great Britain would be willing to give to the omitted words a meaning that would restrict their operation to the southern portion of North America, as proximate to the British West Indies, excluding the range of coast which comprehended the middle and northern states, if I thought that such a plan would be acceptable to my government. I immediately and most decidedly discountenanced such a proposition, as objectionable under every view. He replied, that, having no other object in making the intimation than that of preventing the treaty from falling through, and not knowing himself in what light it might be received, he had of course nothing more to say, after learning from me that it would be objectionable.

I avail myself of this opportunity to forward to you a copy of the act of the last session of Parliament for consolidating the laws of this realm for the abolition of the slave trade, as requested in your communication of the 29th of May.

I have the honor to remain, &c.

RICHARD RUSH.

The Hon. JOHN QUINCY ADAMS,  
*Secretary of State.*

*Mr. G. Canning to Mr. Rush.*

FOREIGN OFFICE, AUG. 27, 1824.

SIR: In pursuance of what I stated to you in our late conference, I have now the honor to address you on the subject of the qualified ratification, on the part of your government, of the treaty for the more effectual suppression of the slave trade, which was concluded and signed, in the month of March last, by you and his Majesty's Plenipotentiaries.

His Majesty's government have given the most anxious and deliberate consideration to this subject; and if the result of that consideration has been to decide that they cannot advise his Majesty to accept the American ratification, (notwithstanding the arguments alleged by you, in the name of your government, in favor of such acceptance,) I entreat you to believe it is not from any diminished sense of the importance of the matter to which that treaty relates.

Nor do they at all underrate the desire which, as you have assured me, and, as they really believe, was felt by the President of the United States, to adopt the provisions of the treaty, such as it was transmitted to America. But the result is not the less inconvenient.

A treaty, of which the basis was laid in propositions framed by the American government, was considered, here, as so little likely to be made a subject of renewed discussion in America, that not a moment was lost in ratifying it, on the part of his Majesty; and his Majesty's ratification was ready to be exchanged against that of the United States, when the treaty came back; not as it had been sent to America, but with material variations—variations not confined to those stipulations, or parts of stipulations, which had been engrafted upon the original project, but extending to that part of the original project itself, which had passed, unchanged, through the negotiation.

The knowledge that the constitution of the U. States renders all their diplomatic compacts liable to this sort of revision, undoubtedly precludes the possibility of taking exception at any particular instance in which that revision is exercised; but the repetition of such instances does not serve to reconcile to the practice the feelings of the other contracting party, whose solemn ratification is thus rendered of no avail, and whose concessions, in negotiation, having been made (as all such concessions must be understood to be made) conditionally, are thus accepted as positive and absolute, while what may have been the stipulated price of those concessions, is withdrawn.



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In the instance before us, the question is not one merely of form. A substantial change is made in the treaty; and, as I have said, on a point originally proposed by yourself, sir, as the American plenipotentiary, and understood to be proposed by the special direction of your government.

The right of visiting vessels, suspected of slave-trading, when extended alike to the West Indies, and to the coast of America, implied an equality of vigilance, and did not necessarily imply the existence of ground of suspicion on either side.

The removal of this right, as to the coast of America, and its continuance to the West Indies, cannot but appear to imply the existence on one side, and not on the other, of a just ground either of suspicion of misconduct, or for apprehension of an abuse of authority.

To such an equality, leading to such an inference, his Majesty's government can never advise his Majesty to consent. It would have been rejected, if proposed in the course of negotiation. It can still less be admitted as a new demand, after the conclusion of the treaty.

With the exception of this proposed omission, there is nothing in the alterations, made by the Senate of the United States, in the treaty (better satisfied, as his Majesty's government undoubtedly would have been, if they had not been made,) which his Majesty's government would not rather agree to adopt, than suffer the hopes of good, to which this arrangement had given rise, to be disappointed.

Upon this omission, they trust the Senate of the U. States will, on another consideration of the subject, see that it is not equitable to insist.

A full power will therefore be sent to Mr. Addington, his Majesty's Charge d'Affaires at Washington, to conclude and sign, with any plenipotentiary to be appointed by the American government, a treaty, *verbatim* the same as the returned treaty would be, with all the alterations introduced into it by the Senate, excepting only the proposed omission of the words "and America," in the first article; which treaty, if transmitted to England, with the ratification of the government of the U. States, his Majesty will be ready to ratify.

But I am to apprise you, sir, that his Majesty will not be advised to appoint plenipotentiaries to conclude and sign the like treaty *here*, to be, as before, ratified by his Majesty, and to be again subjected, after ratification by his Majesty, to alterations by the Senate of the United States.

I am confident that you will see, in this distinction, nothing more than a reasonable safeguard for his Majesty's dignity, and a just desire to ascertain, before his Majesty again ratifies a diplomatic instrument, to what conditions that ratification is affixed.

I have the honor to be, with the highest consideration, sir, your most obedient servant,

GEORGE CANNING.

To RICHARD RUSH, Esq. &amp;c. &amp;c.

*Mr. Rush to Mr. G. Canning.*

LONDON, AUGUST 30, 1824.

SIR: I had the honor to receive, on the 28th instant, your note of the 2d of this month, giving me information that his Britannic Majesty's government have declined, for the reasons you have enumerated, advising his Majesty to accept the ratification, by the President and Senate of the United States, of the treaty for the suppression of the slave trade, lately signed on behalf of the two powers, in manner and form as that ratification had been made known by me to his Majesty's government.

Having already, sir, had the honor to lay before you all the reasons that operated with my government for

giving way to the desire and the hope that his Majesty's government might have felt able to accept the treaty, with the alterations introduced by the Senate as conditions of its ratification, I have only to express my regret at the disappointment of this hope.

All power over the instrument, on my part, as the Plenipotentiary of the United States at his Majesty's court, ceasing by this decision, it only remains for me to say, that I will, with promptitude, transmit to my government a copy of your note, at which source it will receive, I am sure, all the attention due to the high interests of which it treats.

I have the honor to be, with distinguished consideration, sir, your most obedient servant,

RICHARD RUSH.

The Rt. Hon. GEORGE CANNING,  
His Majesty's Principal Sec'y of State  
for Foreign Affairs.

*Mr. Adams to Mr. Rush.*

DEPARTMENT OF STATE,

Washington, Nov. 12, 1824.

SIR: Your despatches, to Nos. 395 and 12, inclusive, have been received. The proposal for the negotiation of a new convention, for the suppression of the slave trade, will receive the deliberate consideration of the President.

It is observed, with regret, that the reasons assigned in Mr Secretary Canning's letter of 27th August, to you, as having induced the British Government to decline the ratification of that which you had signed, as modified by the advice and consent of the Senate of the United States, appear to have arisen from impressions altogether erroneous. It is stated that, under the expectation that the treaty would not be made a subject of renewed discussion in the United States, it had actually been ratified on the part of the British Government as at first concluded; and hence an argument of inconvenience is deduced, that a second, and qualified ratification could not be given, without impairing the dignity of the Government, by the implication that the former ratification had been an act of the sovereign, performed in vain.

To give weight to this reasoning, it would seem an essential part of the facts, that the ratification alluded to had been transmitted to the United States; or at least that it was known to have taken place by the Government of the United States, at the time when the Convention came under the consideration of the Senate. This, however, was not the case. That it had been ratified in Great Britain, was neither known nor believed. It appears to have been an act altogether voluntary, and in no wise referring to that which was expected on the part of the United States. The argument, therefore, rests upon facts other than those which were really applicable to the subject.

While admitting that the knowledge of those provisions of our constitution, which reserve to the Senate the right of revising all treaties with foreign powers, before they can obtain the force of law, precludes the possibility of taking exception to any particular instance in which that revision is exercised, Mr. Canning urges that this part of our system operates unfavorably upon the feelings of the other contracting party; whose solemn ratification, he says, is thus rendered of no avail; and whose concessions in negotiation, having been made, (as all such concessions must be understood to be made) conditionally, are thus accepted as positive and absolute, while, what may have been the stipulated price of those concessions, is withdrawn.

It may be replied, that, in all cases of a treaty, thus ne-

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gottiated, the other contracting party, being under no obligation to ratify the compact, before it shall have been ascertained whether, and in what manner, it has been disposed of in the United States, its ratification can in no case be rendered unavailing by the proceedings of the Government of the United States upon the treaty. And that every Government contracting with the United States, and with a full knowledge that all their treaties, until sanctioned by the constitutional majority of their Senate, are, and must be, considered as merely inchoate, and not consummated compacts, is entirely free to withhold its own ratification until it shall have knowledge of the ratification on their part. In the full powers of European governments to their ministers, the sovereign usually *promises* to ratify that which his minister shall conclude in his name; and yet, if the minister transcends his instructions, though not known to the other party, the sovereign is not held bound to ratify his engagements. Of this principle Great Britain has once availed herself, in her negotiations with the United States. But the full powers of our ministers abroad are necessarily modified by the provisions of our constitution, and promise the ratification of treaties signed by them, only in the event of their receiving the constitutional sanction of our own government.

If this arrangement does, in some instances, operate as a slight inconvenience to other governments, by interposing an obstacle to the *facility* of negotiation, it is, on the other hand, essential to guard against evils of the deepest import to our own nation, utterly incompatible with the genius of our institutions, and it is supported by considerations to which the equitable sense of other nations cannot fail to subscribe.

The treaties of the United States, are, together with their Constitution, the supreme law of the land. The power of contracting them is, in the first instance, given to the President, a single individual. If negotiated abroad, it must be by a minister or ministers under his appointment; and if in Europe, with powers largely discretionary—the distances seldom permitting opportunities to the minister of consulting his Government for instructions, during the progress of the negotiation. Were there no other check or control over this power, and were there an obligation, even of delicacy, requiring the unqualified sanction of every treaty so negotiated, the result would be an authority possessed by every minister of the United States, entrusted with a full power for negotiating a treaty, to change the laws of this Union, upon objects of the first magnitude to the interests of the nation.

In their negotiations with each other, the European nations are generally so near, and the communications between them are so easy and regular, that a negotiator can seldom have a justifiable occasion to agree to any important stipulation, without having an opportunity of asking and receiving the instructions of his government: a practice always and peculiarly resorted to by British plenipotentiaries. With an intervening ocean, this is seldom possible, and it is, therefore, just and proper, that the right of judgment upon all the stipulations agreed to by a minister, should be reserved, in the most unqualified manner, to both governments, parties to the treaty; and that every compact, so negotiated, should be understood to be signed by the minister *remote* from his own country, only *sub spe rati*; not conclusive upon his nation, until its government shall have passed sentence of approbation upon it.

These general observations are submitted, in order that you may make such use of them as you shall deem expedient to satisfy the British Government, that, in this established principle of our constitution, there is nothing to which any foreign government can justly take exception: and that it only reserves to our government a power of supervision, necessary for our own safety, which the European governments effectively reserve to

themselves, and none more cautiously than Great Britain.

I am, with great respect, sir, your very humble and obedient servant,

JOHN QUINCY ADAMS.

R. RUSH, Esq. *Envoy, &c. London.*

*Mr. Addington to Mr. Adams.*

WASHINGTON, 6th Nov. 1824.

SIR: You have already been apprised of the circumstance of his Majesty, my sovereign, having declined affixing his ratification to the convention concluded in London on the 13th of March last, between the British and American Plenipotentiaries, for the more effectual suppression of the slave trade, amended and qualified as that instrument had been by the Senate of the United States.

In lieu of that convention, however, His Majesty proposes to the American government to substitute another, *verbatim* the same as the amended instrument, one point alone excepted; that exception is, the erasure of the word "America," in the first article, a word which stood in the original project of the article, as proposed by the President to the British Government, but which the United States thought fit, after the mutual acquiescence of both parties in it, to expunge.

In announcing to you the fact of my having been furnished with full powers to conclude and sign with the American Government a new treaty, such as I have above described, it will be unnecessary for me to enter at length into the motives which have actuated His Majesty in coming to this decision, as you have already been made acquainted with those motives thro' the medium of an official letter, addressed, on the 27th August last, by His Majesty's Secretary of State, to the American Envoy in London, in which all the grounds of that determination are fully expounded.

A few observations, on my part, however, in brief allusion to one or two points connected with this subject, may here be not misplaced.

In the acquiescence of His Majesty in all the alterations, with one only exception, effected by the Senate in a treaty originally projected by this government, at the spontaneous recommendation of the House of Representatives, the President will, I doubt not, see the clearest manifestation of the earnest desire of His Majesty's Government to carry into effect the important and salutary object for which the treaty was designed, however they may have deemed the original form in which that treaty was presented for the ratification of this government, the best calculated to attain that object.

To the amendment which would exempt the shores of America from that vigilance which is to be employed on those of the British West Indies, thereby destroying that equality which is the prevailing principle of the provisions of the treaty, and which cannot be withdrawn on the one side, or on the other, consistently with the mutual respect and confidence which subsist between the two contracting parties, His Majesty has found himself unable to accede; and I doubt not, that, upon a fair and unbiassed reconsideration of that point, the American government will see and acknowledge the justice of His Majesty's views, and will not hesitate to prove that acknowledgment, by consenting to re-admit the expunged word "America," into the treaty.

It will not fail, sir, to occur to you, that the condition required of Great Britain, prior to the signature of the treaty by the American Plenipotentiary, namely, the denunciation as piracy, by the British Parliament, of the slave trade, when exercised by British subjects, has already been fulfilled.

On the justice of accepting the value already paid for a stipulated act, and withholding the performance of

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that act, I leave it with confidence to your own sense of honor and equity to determine.

The sanction of this government of the *original* provisions of the treaty in *full*, was the equivalent to be received by his Majesty, for his performance of the condition required of him, namely, his sanction of an Act of Parliament, declaring the slave trade piracy. Those provisions have been, in part rejected, in part modified, by this government; and yet His Majesty is still willing to abide by his original agreement, provided this Government will recede from one, alone, of the various amendments made by them in the treaty.

I might here cite as a proof, if proof were necessary, of the unlimited confidence which his majesty reposed in the good faith of the government of this republic, and their sincerity in wishing to execute the treaty signed by their Plenipotentiary in London—a treaty, I repeat, projected in conformity with the express recommendation of the House of Representatives—that His Majesty affixed, without delay, his own ratification to the treaty, in the full security of that instrument being equally invested with that of this government. No shadow of a suspicion ever entered, ever *could* enter, His Majesty's mind, that that ratification could be withheld, in whole or in part.

Under all the circumstances of the case, sir, I cannot but feel an entire conviction, that the sense of justice, and the right feelings which animate the American Government, will lead them to accede, without hesitation, to the proposition now submitted to them on the part of His Majesty, and that the President will find no difficulty in sanctioning the conclusion of a treaty, the provisions of which must eventually result in such incalculable benefits to a most oppressed and afflicted portion of the human race.

With this conviction, I need not assure you, sir, of my readiness to wait upon you at any time which you may think fit to appoint, in order to give effect to the instructions which I have received from His Majesty's Secretary of State, by affixing my signature to the convention, as newly modelled.

I beg, sir, that you will receive the assurances of my distinguished consideration.

H. U. ADDINGTON.

*Secretary of State to Mr. Addington.*

DEPARTMENT OF STATE,

*Washington, 4th December, 1824.*

Sir: Your note of the 6th ult. has been submitted to the consideration of the President of the United States. While regretting that it has not been found conformable to the views of His Britannic Majesty's Government, to concur in the ratification of the convention for the suppression of the slave trade, as recommended by the advice and consent of the Senate of the United States, he has thought it most advisable, with reference to the success of the object common to both governments, and in which both take the warmest interest, to refer the whole subject to the deliberate advisement of Congress. In postponing, therefore, a definitive answer to the proposal set forth in your note, I have only to renew the assurance of the unabated earnestness with which the government of the United States looks to the accomplishment of the common purpose; the entire extinction of that odious traffic, and to the concert of effective measures to that end between the United States and Great Britain.

I pray you, sir, to accept the assurance of my distinguished consideration.

JOHN QUINCY ADAMS.

## DOCUMENTS

### FROM THE WAR DEPARTMENT.

*Secretary of War to the President of the U. States.*

DEPARTMENT OF WAR,

*December 3d, 1824.*

SIR: In compliance with your directions, I herewith transmit reports from the various branches of the Military Establishment, lettered from A to K, which contain a full statement of the administration of that portion of the public service which is confided to the Department of War. The reports afford satisfactory evidence, that a high degree of excellence has been attained in the administration of the different branches of the Department. Not an instance of defalcation, or loss, has thus far occurred, and there is every reason to believe that the disbursements of the year will be made without the loss of a cent to the Government. The accounts have already been rendered for nearly all the money which has been drawn from the Treasury in the three first quarters of the year, on account of the army, fortifications, ordnance, and Indian affairs, and it is anticipated, with confidence, that the accounts of the whole of the disbursements, these quarters, will be rendered before the termination of the year. The old unsettled accounts of the Department which, at the commencement of the present administration, amounted to \$45,111,123, have been reduced to \$3,136,991; and further accumulation is effectually prevented in the Department by strict fidelity and punctuality in expenditure and settlement of accounts.

In order to improve the discipline of the artillery, eleven companies have been collected at Fortress Monroe, at Old Point Comfort, which have been formed into a corps, as a school of practice for the artillery. The dispersed condition of the artillery rendered the measure necessary for the improvement of its discipline. By passing the whole corps, in succession, through the school, a degree of perfection will be given to the discipline of the artillery, nearly, if not quite, equal to that which could be attained, were it practicable to collect it into one body, instead of being dispersed, as it is, in garrisons in the different fortresses along the whole line of the coast. To carry the arrangement into full effect, will require the aid of Congress. An appropriation, in particular, will be necessary, to furnish horses for instruction in the light artillery exercise, which may be also used in instructing the cavalry drill; a branch of service in which the army is now without skill or instruction.

A board of officers has been constituted to revise the book of field exercise and manœuvres of infantry, which was adopted at the close of the late war, in order to a new and more correct edition; and to adapt it, as far as practicable, to the service of militia. It is proposed, also, to add to it, a system of light infantry and cavalry drill, and to correct and enlarge the military rules and regulations, so as to render them as perfect as is practicable with our present experience.

The organization of the Indian Department has been much improved in the course of the year; the beneficial effects of which is already apparent in its improved administration.

The hostilities of the remote tribes on the Missouri still continue, and has extended in some degree to those on the upper Missouri and the upper lakes. The continued hostility among the various tribes themselves in that quarter, it is believed, has contributed, in no small degree, to the murder of our citizens and depredations on their property, which have occurred; and measures have been taken to effect, if possible, a general pacification among them.

The season was too far advanced when the act passed, to carry into effect the intention of Congress in author-

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izing treaties to be held with the remote tribes on the Missouri by Commissioners to be appointed by the President, and to be accompanied by a military escort. The Commissioners have been appointed, (General Atkinson and Major O'Fallon, the Agent on the Missouri,) and measures adopted to carry the provisions of the act into effect as soon in the spring as the season will admit. It is believed that much good will result from the measure, by giving increased security to our citizens and trade in that remote region; but it is feared that nothing short of permanent military posts will afford complete security to either.

The appropriation of the sum of \$10,000, annually, for the civilization of the Indians, is producing very beneficial effects, by improving the condition of the various tribes in our neighborhood. Already 32 schools are established in the Indian nations, and, for the most part, are well conducted, in which, during the present year, 916 youths of both sexes have been instructed in reading, writing, arithmetic, and all of the ordinary occupations of life. So large a body of well instructed youths, of whom several hundred will annually return to their homes, cannot fail to effect a beneficial change in the condition of this unhappy race.

The acts making appropriation for the repairs of Plymouth beach, the improvement of the entrance into the harbor of Presqu' Isle, on Lake Erie, and of the navigation of the Ohio and Mississippi, claimed the early attention of the Department.

The execution of the two first of these works, was placed under the superintendence of officers of the corps of engineers. The first is nearly completed, and preparatory arrangements have been made for the early execution of the second. An officer, also, of the corps, was assigned to the execution of the act for the improvement of the navigation of the Ohio, so far as it authorized an experiment to be made in removing the sand bars, which obstructed the navigation of that river. The officer was prepared to make the experiment, but the river remained too full, during the Fall, for a fair trial. Under the other provisions of the act directing measures to be taken to remove the snags, sawyers, and planters, which obstruct the navigation of the Ohio and Mississippi, a contract has been formed, with a gentleman experienced in their navigation, to free both of those rivers from all such obstructions, in conformity with the provisions of the act, for the sum of \$60,000, to be paid on the execution of the work. In the contract it is stipulated, that it shall be executed under the superintendence and inspection of an officer of the Corps of Engineers.

In order to carry into effect the act of Congress, of the 30th April last, authorizing the President "to cause the necessary surveys, plans, and estimates, to be made, of the routes of such roads and canals, as he may deem of national importance in a commercial or military point of view, or necessary to the transportation of the public mail," a board was constituted, consisting of General Bernard and Colonel Totten, of the Engineer Corps, and John L. Sullivan, an experienced civil Engineer. It became necessary, in giving orders to the board, under the act, to determine what routes for roads and canals were of "national importance," in the views contemplated by the act; as such only as the President might deem to be of that description were authorized to be examined and surveyed. In deciding this point, it became necessary to advert to our political system, in its distribution of powers and duties between the general and the state Governments. In thus regarding our system, it was conceived that all of those routes of roads and canals, which might be fairly considered as falling within the province of any particular state, however useful they might be in a commercial or political view, or, to the transportation of the mail, were excluded from the provisions of the act. The states have important duties to perform, in facilitating, by means of roads and canals,

commercial and political intercourse among their citizens; and within the spheres of these duties, they are more competent to act than the General Government; and there can be no rational doubt, but that, as the population and capital of the several states increase, these powerful means of developing their resources will receive from their respective Legislatures due attention. But as numerous as this class of improvement is, and important as it may be to the General Government, in the discharge of the various duties confided by the constitution to it, there are other improvements, not comprehended in it, of a more general character, which are more essentially connected with the performance of its duties, while they are less intimately connected with those belonging to the state governments, and less within their power of execution. It is believed that this class, and this only, was comprehended in the provisions of the act. In projecting the surveys in this view of the subject, the whole Union must be considered as one, and the attention directed, not to those roads and canals which may facilitate intercourse between parts of the same state, but to those which may bind all of the parts together, and the whole with the centre, thereby facilitating commerce and intercourse among the states, and enabling the government to disseminate promptly, through the mail, information to every part, and to extend protection to the whole. By extending those principles, the line of communication by roads and canals, through the states, the General Government, instead of interfering with the state governments within their proper spheres of action, will afford (particularly to those states situated in the interior,) the only means of perfecting improvements of similar description, which properly belong to them.

These principles being fixed, it only remained to apply them to our actual geographical position, to determine what particular routes were of "national importance," and which, accordingly, the board should be directed to examine, in order to cause surveys, plans, and estimates, to be prepared, as directed by the act.

The first and most important, was conceived to be the route for a canal extending from the seat of government, by the Potomac, to the Ohio river, and thence to Lake Erie; and accordingly, as soon as the board was organized, it was ordered to examine and cause this important route to be surveyed. Dr. William Howard and Mr. James Shriver, both of whom were well acquainted with the localities of the route, were associated as assistants with the board. Two topographical brigades (all that could be spared from the survey of the coast, for the purpose of fortification,) and one brigade of surveyors, under Mr. Shriver, were placed under the orders of the board.

The examination of the route was completed in September; but the survey will not be finished till the next season. That part of it, however, which is most interesting, the section of the summit level of the Alleghany, including its eastern slope, is completed, which, it is hoped, will enable the board to determine, during the present winter, on the practicability of the project. Should it prove practicable, its execution would be of incalculable advantage to the country. It would bind together, by the strongest bond of common interest and security, a very large portion of this Union: but, in order fully to realise its "importance in a national point of view," it will be necessary to advert to some of the more striking geographical features of our country.

The United States may be considered, in a geographical point of view, as consisting of three distinct parts; of which the portion extending along the shores of the Atlantic, and back to the Alleghany mountains, constitutes one; that lying on the Lakes and the St. Lawrence another; and that watered by the Mississippi, including its various branches, the other. These several portions are very distinctly marked by well defined lines, and have naturally but little connexion, particularly in a commer-

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cial point of view. It is only by artificial means of communication that this natural separation can be overcome; to effect which much has already been done. The great canal of New-York firmly unites the country of the Lakes with the Atlantic through the channel of the North River; and the National Road from Cumberland to Wheeling, commenced under the administration of Mr. Jefferson, unites, but more imperfectly, the Western with the Atlantic states. But the complete union of these separate parts, which, geographically, constitute our country, can only be effected by the completion of the projected canal to the Ohio and Lake Erie, by means of which the country lying on the Lakes will be firmly united to that on the Western waters, and both with the Atlantic states, and the whole intimately connected with the centre. These considerations, of themselves, without taking into view others, fairly bring this great work within the provision of the act directing the surveys; but, when we extend our views, and consider the Ohio and the Mississippi, with its great branches, but as a prolongation of the canal, it must be admitted to be not only of national importance, but of the very highest national importance, in a commercial, military, and political point of view. Thus considered, it involves the completion of the improvements of the navigation of both of these rivers, which has been commenced under the appropriation of the last session of Congress; and, also, canals round the falls of the Ohio at Louisville, and Muscle Shoals on the Tennessee river; both of which, it is believed, can be executed at a moderate expense. With these improvements, the projected canal would not only unite the three great sections of the country together, as has been pointed out, but would also unite, in the most intimate manner, all of the states on the Lakes and the Western waters among themselves, and give complete effect to whatever improvement may be made by those states individually. The advantages, in fact, from the completion of this single work, as proposed, would be so extended and ramified throughout these great divisions of our country, already containing so large a portion of our population, and destined, in a few generations, to out-number the most populous states of Europe, as to leave in that quarter no other work for the execution of the general government, excepting only the extension of Cumberland road from Wheeling to St. Louis, which is also conceived to be of "national importance."

The route which is deemed next in importance in a national point of view, is the one extending through the entire tier of the Atlantic states, including those on the Gulf of Mexico. By advertising to the division of our country, through which this route must pass, it will be seen that there is a striking difference in geographical features between the portions which extend south and north of the general government, including the Chesapeake bay, with its various arms, in the latter division. In the northern part of the division, all of the great rivers terminate in deep and bold navigable estuaries, while an opposite character distinguishes the mouths of the rivers in the other. This difference gives greater advantage to improvement, by canal, in the northern, and less in the southern, division. In the former, it is conceived to be of high national importance to unite its deep and capacious bays by a series of canals; and the Board was accordingly instructed to examine the routes for canals between the Delaware and the Raritan, between Barnstable and Buzzard's bays, and Boston harbor and Narraganset bay. The execution of the very important link in this line of communication between the Delaware and the Chesapeake, having been already commenced, was not comprehended in the order. These orders will be executed by the Board before the termination of the season. The important results which would follow from the completion of this chain, in a commercial, military, and political point of view, are so striking, that they need not be dwelt on. It would, at all times, in peace and war, af-

ford a prompt, cheap, and safe communication between all of the states north of the seat of government, and greatly facilitate their communication with the centre of the Union. The states of New Hampshire and Maine, though lying beyond the point where these improvements would terminate, would not, on that account, less participate in the advantages, as they are no less interested than Massachusetts herself, in avoiding the long and dangerous passage round Cape Cod, which would be effected by the union of Barnstable with Buzzard's bay.

In the section lying south of this, none of these advantages for communication by canals exist. A line of inland navigation extends, it is true, along nearly the whole line of coasts which is susceptible of improvement, and may be rendered highly servicable, particularly in war, and on that account may be fairly considered of "national importance." The Dismal Swamp canal, from the Chesapeake bay to Albemarle Sound, which is nearly completed, constitutes a very important link in this navigation. But it is conceived that, for the southern division of our country, the improvement which would best effect the views of Congress, would be a durable road, extending from the seat of government to New Orleans, through the Atlantic states; and the Board will accordingly receive instructions to examine the route as soon as the next season will permit.

The completion of this work, and the line of canals to the North, would unite the several Atlantic states, including those on the Gulf, in a strong bond of union, and connect the whole with the centre, which would also be united, as has been shown, with those on the Lakes and the Western waters, by the improvement projected in that quarter.

These three great works, then, the canal to Ohio and Lake Erie, with the improvement of the navigation of the Ohio, Mississippi, and the canal round the Muscle Shoal; the series of canals connecting the bays north of the Seat of Government, and a durable road extending from the Seat of Government to New Orleans, uniting the whole of the Southern Atlantic States, are conceived to be the most important objects within the provisions of the act of the last session. The beneficial effects which would flow from such a system of improvement would extend directly and immediately to every state in the Union; and the expenditure that would be required for its completion, would bear a fair proportion to the wealth and population of the several sections of country, at least, as they will stand a few years hence. When completed, it would greatly facilitate commerce and intercourse among the states, while it would afford to the government the means of transmitting information through the mail promptly to every part, and of giving effectual protection to every portion of our widely extended country.

There are several other routes which, though not essential to the system, are deemed of great importance in a commercial and military point of view, and which the board will receive instructions to examine. Among these, the most prominent is the connexion, wherever it may prove practicable, of the Eastern and Western waters, through the principal rivers discharging themselves into the Atlantic and the Gulf of Mexico: for example, the Alabama and Savannah rivers with the Tennessee, James river with the Kenhawa, and the Susquehanna with the Alleghany; which last will be more particularly adverted to in a subsequent part of the report. To these, we may add, the route from Lake Champlain to the St. Lawrence, and from the river St. John, across Florida Neck, to the Gulf of Mexico. They are both deemed important; but the latter particularly so. Should it prove practicable, its beneficial effects would be great, comprehensible, and durable. The whole of the Atlantic and Western states would deeply partake in its advantages. Besides the facility of intercourse which it would afford between those states, our



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trade with Mexico, Guatemala, and the central parts of the continent, would not only be greatly facilitated, but rendered much more secure.

The board have, besides those already mentioned, examined, in conjunction with Pennsylvania Commissioners, a route for a canal from the Allegany to the Susquehanna. In addition to the importance of this route to a large portion of the West, and the state of Pennsylvania, it was thought to possess other and strong claims on the attention of the government. It is believed to be one of the most promising routes to cross the Allegany by a canal communication, and should that by the Potomac prove impracticable, it might afford the means of effecting the great object intended by the canal projected by that route.

When the various routes to which I have referred are examined and surveyed, and plans and estimates formed, in conformity with the directions of the act, it will present so full a view of the whole subject, as will enable Congress to commence and complete such a system of internal improvement as it may deem proper, with the greatest possible advantage.

In conclusion, I have to remark, that experience has shown, that the Corps of Engineers is too small to perform the various duties which are assigned to it. Its duties have been more than trebled since its establishment, and are increasing every year. During the present year much inconvenience has been experienced for the want of a sufficient number of officers, notwithstanding every officer of the corps has been on active duty during the season.

I have the honor to remain, your obedient servant,  
J. C. CALHOUN.

*To the President of the U. States.*

#### LIST OF DOCUMENTS,

*Transmitted from the War Department to the President, to accompany his Message to Congress.*

- A. Report of Major General Brown, concerning the organization, distribution, and disbursements of the Army.
- B. Report of the Quartermaster General.
- C. Report of the Commissary General of Subsistence.
- D. Report of the Paymaster General.
- E. Report of the Surgeon General.
- F. Report of the Commissary General of Purchases.
- G. Report of the Engineer Department, with report of the Board of Visitors on the state of the Military Academy.
- H. Report of the Ordnance Department.
- I. Statement concerning Pensions.
- J. Statements of Bounty Lands.
- K. Statement of Indian Affairs.

[These papers furnish the details, the general result of which appears in the preceding report. The two following are selected as being apparently the most important.]

#### A. HEAD QUARTERS OF THE ARMY, Washington. 20th Nov. 1824.

Sir: Agreeably to your instructions of the 1st inst. I have the honor to lay before you the Returns and Statements following, viz :

- A. A Statement of the Organization of the Army, agreeably to the act of Congress of 2d March, 1821.
- B. A Return of the Strength of the Army, from the last regimental and other returns, received at Head Quarters.
- C. A Return shewing the Distribution of the Troops in the Eastern Department.
- D. A Return shewing the Distribution of the Troops in the Western Department.

E. A Statement showing the number of men enlisted, the amount of money advanced for the purposes of recruiting, and the amount for which recruiting accounts have been rendered for settlement, from 1st Oct. 1823, to 30th Sept. 1824.

By statement E, it will be seen, that \$5224 87 remains unexpended in the hands of recruiting officers. This sum is now in a course of application to the recruiting service, and there is no doubt, from the promptitude and correctness of the recruiting officers, that it will, when the proper time arrives, be regularly accounted for.

Brevet Major General Gaines is just completing a tour of inspection, embracing the posts on the upper and lower Lakes; but his report has not been received.

During the early part of the year, a tour of inspection was performed by Brevet Major General Scott, embracing the posts on the Florida Gulf and Mississippi river, commencing at Fort St. Philip, below New Orleans, and terminating at Fort St. Anthony.

During the months of March, April, and May, Colonel Wool inspected all the posts on the Atlantic coast, between Savannah, Geo. and Portsmouth, N. H. During the months of June, July, and August, he inspected the posts of Sackett's Harbor, Niagara, Detroit, Sault St. Marie, and Green Bay.

Colonel Archer has inspected the posts of Baton Rouge, New Orleans, Fort St. Philip, Petite Coquille, Pensacola, and all the Posts on the Atlantic frontier, between Washington City and Fort Sullivan, Me. including the National Armory, at Springfield, Mass.

The Reports of Inspections, performed by the Commanding Officers of Artillery regiments, are not yet received.

The general condition of the army, the state of its discipline, administration, &c. are as favorable as could be expected. The infantry regiments have perhaps attained as much excellence as is compatible with the state of dispersion which naturally grows out of the physical relations of the country, and the exigencies of the public service. In the artillery regiments, an important accession of scientific and experimental knowledge is to be expected from the school of practice, which has gone into operation at Fortress Monroe.

In addition to the intelligence which I have above presented, in obedience to your instructions, I have thought proper to submit, for your consideration, some reflections upon a subject connected, in the most intimate manner, with the welfare of the army, I mean the evil of desertion—an evil which has grown to a serious magnitude, and exerts an unhappy influence upon the numerical force and efficiency of the army, upon its moral character, and upon the fund appropriated by the government for its support. Its effect upon the numerical force and efficiency of the army is, by withdrawing from the ranks a large number of men, of whom the greater part succeed in eluding the vigilance of pursuit, and the residue are devoted to hard labor and imprisonment in the garrison, which are the highest penalties awarded to the crime; in either case their services as soldiers are lost to the army. Its effect upon the moral character of the army is, to degrade the spirit of the profession by relaxing its moral ties, and by merging the infamy of the crime in the multiplication of example.—Its effect upon the fund appropriated to the support of the army is, by increasing the expenditure of the recruiting service, from the necessity of keeping the ranks of the army full, by providing a recruit, at a considerable expense, to supply the place of every deserter who eludes apprehension.

The comforts which the soldier enjoys from the liberal provision of the government, his exemption from all arbitrary restraint, and the mildness and regularity which distinguish the administration of the army, leave no imaginable cause for the prevalence of desertion, but the

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inadequacy of the punishment annexed to it by law. In time of war, it is suppressed by the infliction of capital punishment; but it has not been customary to inflict the sentence of death upon deserters in time of peace. Before the late war, punishment by stripes operated as a partial, if not an efficient, restraint; but this mode of punishment was abolished by law, at a time when it was deemed necessary, in order to engage individuals of respectable connexions and elevated spirit, to enter the ranks, to expunge from the government of the army every feature which was repugnant to the moral elevation of man. It has been my opinion that it would become necessary, if the government should continue to enlist into the army foreigners, who have generally been accustomed to the lash, and cannot easily be governed without it, to revive, by law, the punishment by stripes, under the discretion of courts martial; but, as you have consented to the prohibition of their enlistment, it is at least due to the character of our native soldiery, to make a further experiment to govern them without resorting to expedients which are not altogether in harmony with the genius of our institutions or the spirit of the age.

Experience having proved that the established system of punishment is inadequate to the suppression of the crime, and that it is vain to rely altogether upon the influence of moral obligation, I can conceive no other mode of securing the fidelity of the soldier than by creating an artificial interest, which will bind him to the service. With a view to this object, I would recommend that provision be made, by law, to retain a portion of his monthly pay in the hands of the Government, until the expiration of his term of enlistment, and to make an honorable discharge the condition of its payment. The smallest portion which I would advise to be retained is one dollar per month, and the largest portion two dollars. A sum smaller than the former would be inadequate to produce in the soldier the necessary interest, and a sum larger than the latter would make too serious an inroad upon his comforts. Assuming the medium, one dollar and fifty cents, as the proper standard, let us examine its influence upon the army and the public treasures. At the expiration of his first year's service, every soldier would have in the possession of the Government eighteen dollars; at the end of the second year, thirty-six dollars; and at the expiration of his term of enlistment, ninety dollars. The regular monthly increase of the sum in expectancy, would be a constantly increasing motive to a faithful performance of his duties; and he would be confirmed in his course of fidelity and obedience to the laws, by the consideration that an honorable discharge would put him in possession of a sum sufficient to sustain him in transferring his industry, if he should think proper, to a new pursuit. In the meantime, if he should desert, the sum retained from his pay would, in some cases, be sufficient, and in all cases go far towards enabling the Government to provide a recruit to supply his place. Thus, the expense of filling vacancies occasioned by a violation of the laws, would principally fall, as in justice it ought, upon the offenders themselves, and not upon the public, against which the offence is committed.

The more I reflect upon this subject, the more firmly I am strengthened in the conviction that the frequency of desertion will be materially abridged by the measure which I have the honor to suggest. If my position is correct, it will be apparent that the efficiency of the army will be augmented, that its moral character will be elevated, and that the branch of public expenditure heretofore referred to will be brought within the smallest limits to which, under the most favorable circumstances, it is susceptible of being reduced. If it should be found by experience that this measure is ineffectual, and that it is necessary, by severe and humiliating penalties, to punish, where interest and the sense of moral obligation are inadequate to restrain, it will be a consolation to

reflect, when we are compelled to have recourse to expedients like these, that those of a milder character have been exhausted.

I have the honor to be, most respectfully, sir, your obedient servant,

JAC. BROWN.

Hon. J. C. CALHOUN,  
Secretary of War.

G

Engineer Department, Nov. 20, 1824.

SIR: In pursuance of your instructions, dated the 1st instant, to report "the application of the appropriation of the last session, for fortifications to the several works, and the expenditures necessary for their completion; and also a statement of the work performed on fortifications within this year, ending 30th Sept. last; the works remaining to be commenced, according to the plans of the Board of Engineers; the estimates of the Board of Engineers for those works; the progress of the Board of Engineers in its labors, comprehending the operations of the Topographical Engineers, from the commencement of the year; the progress of the Board of Internal Improvements, comprehending the operations of the Topographical Engineers, under the act of the 30th of April last, to procure the necessary surveys, plans, and estimates, upon the subject of Roads and Canals; the act of the 24th of May last, to improve the navigation of the Ohio and Mississippi rivers; the act of the 26th of May last, for deepening the channel leading into the harbor of Presqu'Isle, and for repairing Plymouth Beach; the condition of the Military Academy, including its present number, and the number which graduated last year; the amount drawn for the three first quarters of this year, under the several heads of appropriation, and the amount of accounts rendered and passed to the Auditor for settlement in the same period," I have the honor to make the following report, viz:

I beg leave to refer to the accompanying tables, marked G, H, and I, for part of the information above required.

Table G exhibits "the application of the appropriation of the last session, for fortifications to the several works, and the expenditures necessary for their completion." It shows that, of the amount appropriated, \$620,000, the sum of \$312,477 86 was expended in the three first quarters of the year, leaving the sum of \$307,522 14 to be expended.

Table H exhibits the amounts drawn for the three first quarters of this year, added to the amounts in the hands of agents on the 1st of January last, applicable to the several objects designated; and the amount of accounts relating to those objects, rendered and passed to the Auditor for settlement in the same period.

Table I exhibits "the works remaining to be commenced, according to the plans of the Board of Engineers, and the estimates of the Board of Engineers for those works."

The work performed on fortifications within this year, ending on the 30th of September, will be found in the following summary statements, in relation to each fortification. Two of those fortifications, that at Brenton's Point, in the harbor of Newport, Rhode Island, and that at New Utrecht Point, in the harbor of New York, were commenced this year.

The work at Brenton's Point was commenced under the authority of an appropriation of fifty thousand dollars, for purchasing the site and collecting materials.—The site has been purchased and enclosed; the construction of a wharf, and other arrangements for collecting materials have been commenced, and some materials have been collected.

The work at New Utrecht Point was also commenced, under the authority of an appropriation of fifty thousand

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dollars, for purchasing the site and collecting materials. The greater part of the land required for a site for this work is already owned by the United States. The small addition to be procured has not yet been obtained. The proprietor holds it at a price much above what is conceived to be its value; and several attempts to negotiate with him having failed, an appeal has been made, through the Governor, to the Legislature of New York, to appoint assessors, to determine the value. Extensive arrangements for the collection of materials are in progress. The wharf has been repaired, and a railway, to extend from it to the top of the bank, a height of forty-five feet, has been commenced, together with trucks to be used upon it. Other arrangements have been made, and a few materials have been collected.

At Fort Monroe, the progress of the operations during the year has been steady and satisfactory. The work is of great extent, and yet all parts of it have been, in a more or less degree, advanced, and in some parts the main walls have been completed. Additional permanent quarters have been built, and the construction of a permanent hospital has been commenced.

It had been contemplated to lay the foundation of the walls of Fort Calhoun during this season, and arrangements were made accordingly, but they could not be carried into effect, for the want of an officer to superintend them. No disadvantage, however, is likely to arise from the delay; on the contrary, if the mole, which is a pile of stones upon which the structure is to be built, has not thoroughly settled, which is possible, although not probable, there will be afforded additional time for to acquire the requisite solidity.

The work at Mobile Point was conducted this year under favorable circumstances, and the results reported are very satisfactory, notwithstanding that some interruption was occasioned by the suspension of the operations at one of the brick-yards, which had been relied on for the supply of bricks. The difficulty of procuring bricks in sufficient quantities, and of proper quality has heretofore constituted the chief obstacle to the prosecution of the work at Mobile Point. During the last year the old brick-yards in the vicinity of Mobile Point have been enlarged and improved, and several new ones have been established. The effect of these changes is already manifest, in the improvement of the quality, and the reduction of the price, of that material. The supply of materials on hand, with such additions as the existing sources of supply may be relied on to furnish, afford the fullest assurance, that the difficulties heretofore experienced for the want of them, are not likely to recur.

The operations at Chef Menteur have been very well advanced this year, although they have been retarded by the sickness which prevailed there during the summer and fall, which was so general that only one individual at the work escaped.

The sickness was still greater at Fort Jackson, on the Mississippi, and proved fatal to a number of workmen and military convicts employed at hard labor. In consequence of this circumstance, less work has been done than was expected; but arrangements have been made, calculated to impart additional vigor to the operations during the season favorable to their prosecution, and by that means, to complete, before the ensuing spring, the expenditure of the residue of the appropriation.

I regret to state, that the anticipation that Fort Delaware would be completed out of the appropriation of 1823, has not been realized. In making that representation in the report of last year, this Department was governed by the report of Major Babcock, the superintending engineer; but experience has proved that his estimates were erroneous. It is also with regret that I state that the final inspection of the Board of Engineers, upon the execution of the work, has not been creditable to the officer; besides the erroneous estimates, he

had deviated from the plan in several particulars, to the injury of the work. His conduct was considered so reprehensible, that a court of inquiry, to investigate it, was ordered, and it being conceived that the opinion of the court lay the just foundation for further measures, a court martial was ordered to try Major Babcock, on charges growing out of his conduct as superintendent, of which, however, he was acquitted, on the belief of the court that the errors were errors of judgment, and not intentional.

The occurrence has been one of mortification to the Department, but it feels a thorough conviction that Fort Delaware is the only one of the fortifications which, on final inspection, will be found to be defective, either in the workmanship, or in the want of conformity to the plans. This particular work was commenced at an early period, before the commencement of the present system, and the errors that have been committed may, at least in some degree, be attributed to the incomplete state of the system under which it was commenced.

The foregoing exhibits the progress of the fortifications during the year, with the exception of some repairs that were made to Castle William, in New York harbor.

The officers composing the Board of Engineers for Fortifications, have been engaged, during this year, chiefly in the duties of the Board for Internal Improvements, of which, also, they are members. During the early part of the year, they were employed in the consideration of a project for the defence of the eastern section of the coast of Maine—in preparing plans and estimates for fortifications for Portland, in Maine; Portsmouth, in New Hampshire; Beaufort and Cape Fear river, in North Carolina, and Charleston, in South Carolina. They also inspected Fort Delaware and Fort Washington. A portion of the Topographical Engineers, under their instructions, have been employed in the prosecution of surveys at St. Mary's, on the Potomac, on the Patapsco, and in the harbor of Charleston, in South Carolina, and its vicinity; and, also, in the preparation of drawings relating to those surveys, and to others previously made.

Under the act of Congress of the 30th of April last, "to procure the necessary surveys, plans, and estimates, upon the subject of roads and canals," the Board of Engineers for internal improvements have made the requisite examinations in relation to routes for canals contemplated to be established between the Chesapeake and Ohio, the Ohio and Lake Erie, (east of Cuyahoga and Great Beaver,) the Alleghany and Susquehanna, the Susquehanna and Schuylkill, the Delaware and Raritan; and are now engaged in examining the routes between Buzzard's and Barnstable Bays, and Narragansett Bay and Boston Harbor. The requisite surveys in relation to the above have been commenced by a portion of the topographical engineers, and by civil engineers on the route between the Chesapeake and Ohio; and the greater part of those on the eastern slope have been completed.

Under the act of the 24th May last, to improve the navigation of the Ohio and Mississippi rivers, arrangements were prepared, under the superintendence of an officer of the Topographical Engineers, to carry into effect the first section, by making one of the required experiments over the sand-bar below Henderson, being one of those designated; but the river, when at its lowest stage last summer, being much higher than the ordinary level at the lowest stage, it was conceived that a fair experiment could not be made, and it was accordingly postponed until the state of the river should be more favorable. To carry into effect the second section, a contract has been made with Mr. John Bruce of Kentucky, to remove all snags, sawyers, and planters, in the Ohio, between Pittsburg and the Mississippi; and in the Mississippi, between the mouth of Missouri and New Orleans; the execution of which, during its progress, will

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be superintended by an officer of the Corps of Engineers, who has been ordered to Pittsburgh, to be in readiness for that service.

Under the act of the 26th of May last, making appropriations for deepening the channel leading into the harbor of Presqu'isle, in Pennsylvania, and for repairing Plymouth Beach, in Massachusetts, officers of the corps of Engineers were assigned to superintend the fulfilment of those objects, but were prevented, by unavoidable circumstances, from entering upon their respective duties before the month of August. It was found, after collecting materials, and making other preliminary arrangements at Presqu'isle, that the season had advanced too far, and the weather had become too cold, to authorize the commencement of the construction, the first stage of which would be driving piles, an operation that would require exposure in the water. The construction at Presqu'isle, therefore, will not be commenced until the next spring, unless it should be found to be practicable to drive the piles through the ice in the ensuing winter. The success of a partial experiment lately made, has thoroughly satisfied the engineer having the superintendence of the work, of the feasibility and efficiency of the plan, to fulfil the purposes for which it is intended.

The repair of Plymouth Beach, although commenced too late to admit of its being completed this season, has been three-fourths finished, and has put the beach in a condition to afford very important, if not adequate protection to the harbor, for the present.

The Military Academy not only continues to sustain the high character for discipline and scientific attainment which was exhibited in the last annual report, but has evidently improved in its general condition. At the last June examination, before a numerous and scientific Board of Visitors, a very favorable exhibition of the attainments of the cadets confirms this opinion. The number of cadets now at the academy is two hundred and fifty four, and the number of those which were graduated and promoted into the army last year, is thirty-one. Notwithstanding the Military Academy progresses with remarkable success under the present system established for its government by the War Department, it is evident that the institution is susceptible of further improvements in its organization. These improvements have suggested themselves in the course of experience, and can be effected by legislative provision only.

This subject has been particularly noticed by the Board of Visitors who examined the Military Academy, in June last. I take the liberty of presenting, herewith, a copy of their report, marked A, with extracts from their journal of proceedings, marked B, C, and D, and beg leave to refer you to them, and also to my report and the accompanying documents on the same subject, dated the 21st of February last, which has been published among the state papers of the 1st session of the 18th Congress, in the 6th volume, article No. 111.

From the growing importance, as well as from the extension of the duties assigned to the Engineer Department, it is evident that the number of officers attached to it is inadequate to the fulfilment of all that is required of it; and, in consequence, the Department is under the necessity of employing individuals in civil life, at a rate of compensation far above that paid to the regular officers of the Department. I therefore respectfully submit to your consideration, whether, under the increasing demands for the services of the Engineers, an augmentation of their numbers would not at this time be expedient, both on the score of economy and the faithful execution of the enlarged duties required of the Department. The whole number of the officers of the Corps of Engineers is twenty-two, and of the Topographical Engineers, ten—a small number, when compared with the

importance, extent, and variety of objects, committed to the direction of the Engineer Department.

Respectfully submitted.

ALEX. MACOMB, *Maj Gen.*

*Chief Engineer.*

The Hon. J. C. CALHOUN, *Secretary of War.*

## REPORT OF THE SECRETARY OF THE NAVY, *Accompanying the President's Message.*

*The Secretary of the Navy to the President of the U. States.*

NAVY DEPARTMENT, Dec. 1, 1824.

SIR: I have the honor to present to you the following report, exhibiting the administration of this Department during the present year.

There are now in commission for the sea service, the vessels named in paper A, subjoined to this report.

Nothing, worthy of particular observation, has occurred with our squadron in the Mediterranean.

It has been maintained at the extent which was proposed in the report of last year, and has afforded the necessary protection to our commerce there. The unfriendly relations, however, which exist between Algiers and some of the governments of Europe, and the effects not unlikely to be felt, upon our political and commercial interests in that quarter, with other important considerations, have been supposed to render it expedient to augment our force. With this view, the North Carolina has been prepared, and will sail in a few days. The squadron will then consist of the ship of the line North Carolina, frigate Constitution, corvette Cyane, the sloops of war Erie and Ontario, and schooner Nonsuch; and will be under the command of Commodore Rodgers, who has been, for several years past, the President of the Board of Navy Commissioners, and whose high qualifications are so well known and justly estimated by the nation.

Our naval force in the Atlantic and Gulf of Mexico has continued under the command of Commodore Porter. By direction of the Department, he has, from time to time, despatched one of the vessels of his squadron to the Coast of Africa, to touch at Cape Mesurado, minister to the wants of the agency there, and return by the usual track of the slave ships. None of these, or any other of our public ships, have found vessels engaged in the slave trade, under the flag of the United States, and in such circumstances as to justify their being seized and sent in for adjudication: and, although it is known that the trade still exists, to a most lamentable extent, yet, as it is seldom, if ever, carried on under our own flag, it is impossible, with the existing regulations and instructions, to afford very efficient aid in exterminating it. That object can only be accomplished by the combined efforts of the maritime nations, each yielding to the others the facilities necessary to detect the traffic under its own flag. The agency for recaptured Africans has been maintained, in the same manner as in the last year. The eleven negroes which were taken from Captain Chase, at Baltimore, and sent to the agency, were restored to their homes, under circumstances very gratifying to humanity, and calculated to produce a good effect upon their several tribes. The near relations of some of them were on the shore when they arrived, manifested much sensibility at their unexpected return, and furnished safe means of restoring them to their families.

The agent, Dr. Ayres, was compelled, by enfeebled health, to return to the United States, and left Mr. Ashmun as acting agent. He, likewise, was obliged, by the same cause, to be absent for a time; inconveniences necessarily resulted, and it was thought expedient to send the Rev. Mr. Gurley to examine into the situation of the agency, with directions to make certain arrangements, should circumstances require them. His report, marked

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B, with other papers, will be annexed, should his health enable him to make it in time, and will show the condition and prospects of the agency. The principal difficulties which have been encountered there, have arisen from the want of a fit position and suitable accommodations for the agent, and the recaptured Africans, on their arrival on the coast. These difficulties have been, in a great degree, overcome, and will, with the expense, be regularly diminished as the establishment made by the Colonization Society increases, and is rendered more permanent and well regulated, furnishing facilities for all the objects for which the agency was created. The expenditures during the year, so far as they are yet known, of the appropriation for the prohibition of the slave trade, has amounted to \$15,326 02, and there remains of that fund a balance of \$47,391 39.

The manner in which the force assigned to the protection of our commerce, and the suppression of piracy in the West Indies, has been employed, will be seen by the annexed letters and reports of Commodore Porter, marked C. The activity, zeal, and enterprize of our officers, have continued to command approbation. All the vessels have been kept uniformly and busily employed, where the danger was believed to be the greatest, except for short periods, when the Commander supposed it necessary that they should return to the United States, to receive provisions, repairs, and men, and for other objects essential to their health, comfort, and efficiency. No complaints have reached this Department, of injury from privateers of Porto Rico, or other Spanish possessions, nor have our cruisers found any violating our rights. A few small piratical vessels, and some boats, have been taken, and establishments broken up, and much salutary protection afforded to our commerce. The force employed, however, has been too small, constantly to watch every part of a coast, so extensive as that of the islands and shores of the Gulf of Mexico, and some piratical depredations have therefore been committed; but they are of a character, though, perhaps, not less bloody and fatal to the sufferers, yet differing widely from those which first excited the sympathy of the public, and exertions of the Government. There are few, if any, piratical vessels of a large size in the neighborhood of Cuba, and none are now seen at a distance from the land; but the pirates conceal themselves, with their boats, in small creeks, bays, and inlets, and finding vessels becalmed, or in a defenceless situation, assail and destroy them. When discovered, they readily and safely retreat into the country, where our forces cannot follow, and, by the plunder which they have obtained, and which they sell at prices low and tempting to the population, and by the apprehensions which they are able to create in those who would otherwise give information, they remain secure, and mingle, at pleasure, in the business of the towns, and transactions of society, and acquire all the information necessary to accomplish their purposes. Against such a system, no naval force, within the control of this Department, can afford complete security, unless aided by the cordial, unwavering, and energetic co-operation of the local governments; a co-operation which would render their lurking places on land unsafe, and make punishment the certain consequence of detection. Unless this co-operation be obtained, additional means ought to be entrusted to the Executive, to be used in such manner as experience may dictate.

The health of the squadron, and of Thompson's Island, has been much better than during the last season; yet many of our officers, and among them Commodore Porter, have suffered severely from disease, and several have died; most of the latter have fallen victims to the necessity, real or imagined, of visiting unhealthy places upon shore, which they were warned as much as possible to avoid, and which a sense of duty, no doubt, induced them to visit. A list of those who have died during the

year, on that and other stations, will be annexed, marked D.

Some improvements have been made, and others are proposed, at Thompson's Island, by cutting the timber, clearing and draining the ground, and building store-houses, and, if the means are afforded, it is confidently believed that it will be made both comparatively comfortable and healthy, before the next summer and fall. A balance of \$28,784 69 still remains of the appropriation of December, 1822, "authorizing an additional naval force for the suppression of piracy," but claims exist against it, to a large amount, which have not yet been presented.

Two of the small schooners, the Greyhound and the Jackall, purchased under the authority of that act, have been found "so much out of repair, that it was not for the interest of the United States to repair them," and were disposed of; and one other, the Wild Cat, it is feared, is lost, with her officers and crew, in a passage from Havana to Key West.

The force on that station has been, in this way, somewhat reduced, and it has been considered expedient to augment it, by the addition of the frigate Constellation, which will be ready to join it as soon as men can be enlisted for the purpose. One of the sloops of war, now in the Mediterranean, will, probably, be ordered there in the spring, should circumstances permit.

The surveys directed by the act, entitled "An act authorizing an examination and survey of the harbor of Charleston, in South Carolina, of St. Mary's, in Georgia, and of the coast of Florida, and for other purposes," have not yet been completed.

Competent naval officers have been ordered upon the service. It was thought useful to unite with them, in a part of the examinations, one or more of the Corps of Engineers, which could not be effected.

On application to the War Department, it was found that all the officers of that corps were so engaged, as to prevent the Secretary from detailing even one for this service. It is hoped, however, that such information has, in the mean time, been procured, respecting the places named, except St. Mary's, as will accomplish the purpose for which the law was passed, should Congress act upon the subject at this session. Should it be proposed, however, to fix upon a site for a Naval Depot in the Gulf of Mexico, I would respectfully suggest the propriety of entrusting the selection and purchase to the Department, after further and satisfactory surveys shall have been made.

Commodore Stewart, in the Franklin, arrived at New York in the month of August, having left Commodore Hull, with the frigate United States, the sloop of war Peacock, and the schooner Dolphin, in the Pacific. It is hoped that this force will be able to prevent depredations on our important commerce in that sea, and secure respect for our flag. Our commerce, however, has increased so rapidly there, and is scattered over so large a space, that an addition of one or more vessels would be made, if they were within the control of the Department.

This addition will become indispensable, should the Government be disposed to make permanent provision for the protection of our commerce, and other interests in the neighborhood of Columbia river, and on the north-west coast. Constant experience shews the importance of such augmentation of the number of our vessels, as will enable the Government to add to the force both in the Atlantic and Pacific. Inconveniences are felt, and losses are sustained, by our citizens in both Oceans, which might be prevented, were the means for their protection enlarged.

In the course of the year, several regulations have been adopted to promote efficiency and economy in the medical and other departments of the service, and some good is anticipated from them. It is impossible, howe-



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ver, to do all which is desired, without the aid of Congress. Several laws seem necessary to render the establishment economical and efficient. Among them are those which were under consideration at the last session, for building ten sloops of war and reorganizing the navy. To these ought to be added a revision of the law for the better government of the Navy, and the system of Courts Martial. But especially some provision should be made for the education and instruction of the younger officers. We have now the light of experience on this point in the army, and its salutary effects are very manifest. Instruction is not less necessary to the Navy than the Army. I refer to the views taken of some of these subjects in the reports made during the last Session, and it will be my duty to develop them more fully in answer to a resolution of the Senate now before me.

The expenditures of the year are submitted in a report from the Second Comptroller, marked F, and the estimates for the next year in one from the Commissioners of the Navy, marked G. In the latter, it will be found that estimates have been made of the expense of certain necessary improvements at Thompson's Island, and for the repairs of four of our frigates, which policy and economy require to be placed in such a situation, that their services can be commanded whenever they shall be necessary.

We have, at present, no frigate which could be sent to sea, without large repairs, creating a delay which, under certain circumstances, might be injurious to the public interest.

The general estimate comprehends the several heads of expenditure in the form supposed to be best fitted for keeping the accounts, with plainness and accuracy, most easily explained, best adapted to a rigid investigation of the expenses of the naval service, and, as far as practicable, conformed to the views of the House of Representatives at the last Session, as understood at the Department. It is accompanied by explanatory statements of the several items, in great detail, exhibiting the propriety of the estimate, and the necessity of the appropriation.

The estimates for the Marine Corps, with the explanatory statements, are added, and marked H.

I have the honor to be, with great respect, sir, your most obedient servant,

SAMUEL L. SOUTHARD.

To the PRESIDENT of the United States.

### REPORT OF THE POSTMASTER GENERAL, Accompanying the President's Message.

The Postmaster General to the President of the United States.

POST OFFICE DEPARTMENT,  
30th November, 1824.

SIR: I have the honor to submit to you the following report respecting the transactions of this Department.

The expenditures of the Department from the 1st April, 1822, to the 1st April, 1823, were, as stated in my report of November last,

\$1,169,885 51

The receipts for postage, during the same period, were

1,114,345 12

55,540 39

Leaving an expenditure of fifty-five thousand five hundred and forty dollars and thirty-nine cents more than the current receipts.

The expenditures from the 1st April, 1823, to the 1st April, 1824, were

\$1,170,144 63

Receipts for postage, during the same time, amounted to

1,153,845 72

16,298 91

Leaving an expenditure, beyond the receipts, of sixteen thousand two hundred and ninety-eight dollars and ninety-one cents.

A comparison of the receipts for postage for the three quarters preceding the 30th June last, with the corresponding quarters of the previous year, will show a considerable increase of receipts.

Postage received from 1st October, to the 31st of December, 1823, amounted to

\$277,833 10

In the corresponding quarter of 1822, there was received

261,741 64

16,091 46

Making an increase for this quarter, of sixteen thousand and ninety-one dollars and forty-six cents.

Postage received from 1st January, 1824, to the 31st of March, ensuing,

\$309,755 69

In the corresponding quarter of the year 1823,

286,144 29

23,611 40

Making an increase, for this quarter, of twenty-three thousand six hundred and eleven dollars and forty cents.

Postage received from the 1st April to the 30th of June, 1824,

\$291,275 54

There was received for the corresponding quarter of the year 1823,

288,211 26

3,064 28

Making an increase for this quarter, of three thousand and sixty-four dollars and twenty-eight cents.

The total increase of receipts for the three quarters specified, is

\$42,767 14

The accounts rendered for the quarter ending on the 30th of September last, have not been all examined, but it is calculated that the receipts will exceed, by fifteen thousand dollars, the receipts of the corresponding quarter of the previous year, which will make an augmentation of receipts, for the four quarters, of about fifty-seven thousand seven hundred and sixty-seven dollars.

The total amount of receipts for postage for the three quarters above stated, is

\$878,866 33

During the same time, the expenditures of the Department were

868,121 50

10,744 83

Leaving the sum of ten thousand seven hundred and forty-four dollars and eighty-three cents, more than the expenditures for the three quarters.

Contracts were made in September, 1823, to transport the mail, in the present year, two hundred and thirty-five thousand three hundred and seventy-eight miles more than it was transported in the year 1823. One hundred and twenty-five thousand and thirty-four miles of this distance, it will be conveyed in stages. There has also been given, on many routes, within the same time, greater expedition to the conveyance of the mail, for which an adequate compensation is paid.

In making the mail contracts, in September last, for New England and New York, there was but little reduction of expenditure, but many important accommodations were given, by making provision for an increased transportation of the mail. Under these contracts, the mail will be conveyed two hundred and fifty-nine thousand seven hundred and forty miles per annum more than it has ever before been transported, by contract, in the same sections of country. It will be conveyed in stages, the whole of this distance, except ten thousand five hundred and four miles.

Since the first of July, 1823, the transportation of the mail has been increased four hundred and ninety-five thousand one hundred and eighteen miles per annum. Of this distance, it will be conveyed in stages three hun-

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Report Post Master-General—Post Road to New Orleans.

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dred and seventy-four thousand two hundred and seventy miles.

This transportation, computed at the lowest price for which similar service is performed, will amount to the sum of thirty thousand dollars annually. When to this sum is added the deficiency of receipts to meet the expenditures for the year ending on the 1st April, 1823, and the probable excess of receipts for the present year, above the expenditures, the improvement of the operations of the department will appear.

For the above service,	\$30,000 00
Deficiency of receipts to meet the expenditures for the year ending on the 1st April, 1823,	55,540 39

Probable amount of receipts for postage the present year, above the current expenses,

15,000 00
100,540 39

From this statement, it appears that the condition of the department has been improved, in comparison with the year ending on the first of April, 1823, by a reduction of expenditure and increase of receipts, one hundred thousand five hundred and forty dollars and thirty-nine cents per annum.

The advantages from the arrangement adopted respecting newspaper postage have not been fully developed, but it has been ascertained, that the receipts from that item have been increased at the rate of about twenty-five thousand dollars per annum.

Unremitted exertions have been made to collect the balances due to the department. Within the past year, many suits have been brought and judgment obtained. In many cases, where judgments have been obtained on accounts of long standing, the delinquent Postmasters and their sureties have been found insolvent, and the costs of suit have been consequently paid by the department. To avoid, as far as possible, a useless expenditure of this kind, the Attorney of the United States is now requested, when an account of some years standing is sent to him for collection, not to commence suit, if, on inquiry, he shall find that the principal and his surety are insolvent. To issue process in such a case, would subject the department to a bill of costs, without answering any valuable object to the public. In a short time, all demands against delinquent Postmasters will be in suit, where there exists any probability that more than the costs can be collected.

The improvement which has been made in the revenue of this department, for the past year, authorizes the opinion that it will be able to meet an increased expenditure, by affording additional mail accommodations on established routes, or by transporting the mail on new routes, which Congress may think proper to establish.

There are many routes, now in operation, which require a greater expenditure than any advantage arising to the public would seem to justify. If these were discontinued, and other routes of more general utility established, the public convenience would be greatly promoted, without adding to the expenditure of the department. A judicious revision of the mail routes, and of the law regulating the Post Office Department, will enable it, in a very short time, not only to send the mail into every populous neighborhood of the Union, but to give every accommodation which may be desirable to the important commercial posts.

The money lately appropriated by Congress to repair so much of the mail route, from Nashville in Tennessee, to New Orleans, as passes through the Indian country, and which was placed by your direction at the disposition of this department, has been applied to the object intended, except five hundred and ninety dollars and six cents.

As a small sum of money was to be expended in repairing a road of great length, and as the public interest required that the repairs should be made the whole

extent, so as to remove all obstructions to the transportation of the mail, it was deemed important, before the commencement of the work, to ascertain the nature and extent of those obstructions. This was done by the person appointed to make the repairs; and in making them, streams of water, which were occasionally rendered impassable to the mail, by high water, were bridged, and swamps, which were also sometimes impassable, were cause-wayed. The work, it is believed, has been faithfully executed, and at such places on the route as most required it.

After the work was done, the money was paid, on the valuation of two practical men, who were recommended to the department as well qualified for that purpose. They were instructed to examine minutely the manner in which the work had been performed, with a view to its permanency and the object designed, and to report what sum would be a reasonable compensation for it.

The balance of the appropriation which remains unexpended, will be applied in making some additional repairs during the present winter.

I have the honor to be, most respectfully, your obedient servant,

JOHN M'LEAN.

The President of the U. States.

### REPORT OF THE POSTMASTER GENERAL, On the subject of the most practicable Post Route from New Orleans to Washington City.

POST-OFFICE DEPARTMENT,

15th December, 1824.

SIR: In obedience to a resolution of the Senate of the United States, adopted at their last session, requiring the Postmaster General to report to the "Senate, at the present session, the most practicable post route from New Orleans to Washington City," I have the honor to state, that the route on which the mail has been transported, for several years past, from this City to New Orleans, is by the way of Fredericksburg and Abingdon, in Virginia; Knoxville and McMinnville, in Tennessee; Huntsville, Rushville, and Pikeville, in Alabama; Columbus, Jackson, Fort Gibson, Washington, Natchez, and Woodville, in Mississippi; thence, by St. Francisville and Baton Rouge, to New Orleans. This route is estimated to be 1,380 miles, and requires a travel of 24 days.

The military road, as it is called, from Columbus, in Mississippi, to Madisonville, in Louisiana, is on nearly a direct line from the former to New Orleans, and much nearer than the road by the way of Washington and Natchez. But this road is represented to be so much out of repair, as to render the regular transportation of the mail upon it impracticable. The bridges and causeways have fallen into decay and, in many parts, the entire space, opened for the road, has become filled with young growths of timber.

Some years since, a contract was made, by this department, to transport the mail to New Orleans, from this City, by Salisbury, in North Carolina; Spartanburg, in South Carolina; Athens and Fort Hawkins, in Georgia; and Fort Stoddart, in Alabama, the distance being computed at 1260 miles. But there were so many obstructions on this route, arising from streams of water, and other causes, that it was found impracticable to perform the contract, and it was abandoned.

There is a mail route from Knoxville, in Tennessee, by the way of Kingston, in the same state; Berneville, Cahawba, and St. Stephen's, in Alabama, to New Orleans, which makes the distance from Washington to that place, 1,222 miles. But the obstructions on this route are known to be nearly as great as on the route by the way of Athens and Fort Hawkins.

The post route to New Orleans, which passes through the capitals of the Southern states, is estimated at 1,312

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miles. This distance might be reduced to 1,100 miles, if no greater deviations, from a direct line, were made, than would be necessary to obtain good ground for a road, and to pass through Richmond, Raleigh, Columbia, and Milledgeville; and thence by Coweta and St. Stephen's to New Orleans. A part of the Alabama and Mississippi mail, and the mail from the south to New Orleans, is transported on this route. But, in the winter and spring seasons of the year, the numerous streams of water over which there are neither bridges nor ferries, present insurmountable obstacles to the regular and rapid transmission of the mail on this route.

On a direct line from Washington to New Orleans, the distance is 960 miles. This line passes near Warrenton, Charlottesville, Lexington, Big Lick, Grayson Court House, in Virginia; Ashville, in North Carolina; thence, through the Indian country by Cahawba and St. Stephens, in Alabama, to Pearlton, near Lake Borgne; thence to New Orleans.

The northwestern part of North Carolina, through which this line passes, is so mountainous as to render a deviation to the south or north, in constructing a road, indispensable. A deviation to the north, so as to avoid the mountains, will pass by or near Fotheringay, Wythe Court-house, Christiansburg, and Abingdon, in Virginia; Knoxville, in Tennessee; thence, through the Tennessee Valley, by Cahawba, to New Orleans, on nearly a straight direction. This route is estimated at 1,056 miles, including ten per cent. for the variation from a straight line, from Washington to Knoxville; thence to New Orleans; and is believed to be the nearest direction practicable for a post road from Washington to New Orleans. The variation, so as to pass by Knoxville, would not increase the distance more than six miles. A deviation to the south, so as to avoid the principal mountains, would pass near Salem, in North Carolina, Greenville, in South Carolina, and Athens, in Georgia. This route would not vary, at any one point, more than 60 miles from a direct line, and would not increase the distance, by a line passing through the above places, more than seven miles.

The route by the way of Warrenton, Abingdon, and Knoxville, affords great facilities for the construction of a mail road. Through Virginia and Tennessee, the materials are abundant for the formation of a turnpike; and through the states of Alabama and Mississippi, it is believed, from information which has been obtained, that in no part of the Union can an artificial road of the same length, be constructed at less expense. On this part of the route, the general face of the country is level, and the soil well adapted to the formation of a solid road. Some information has been communicated to this Department on this subject, but it does not come strictly within the scope of the resolution. If a substantial road were made, in this direction, to New Orleans, the mail could be transported to that place, from this city, in eleven days. If the road were to pass through the capitals of Virginia, North Carolina, South Carolina, and Georgia, it could be conveyed in less than twelve days.

The route on which the mail is now transported to New Orleans, although more circuitous than some others, in the present condition of the roads, is the safest and best. There are many obstructions on it, but they are less numerous than on any other. Greater celerity and safety are given to the mail on this route, than could be given to it on any other, to New Orleans, and it passes through, and supplies, many important towns and vil- lages, and thickly settled parts of the country.

In the winter and spring seasons of the year, the mail on this route, as on all others in the same parts of the country, is sometimes entirely obstructed by high waters; and, when this is not the case, it is frequently much injured by the mail horses swimming creeks and through swamps of considerable extent. The friction from the movement of the mail horses, is certain to des-

troy all newspapers that become wet, and not unfrequently, letters are much obliterated. When the mail is a considerable time immersed in water, as has often been the case on this route, it is impossible to secure it perfectly from injury.

The Department now pays at the rate of fifty-two dollars and seventy-six cents a mile for the transportation of the mail three trips in each week, to New Orleans. On a good turnpike road, it could be conveyed in a stage as often, and in less than half the time, at the same expense. And what is a most important consideration, the utmost security would be given to the mail by such a transportation, and a very considerable increase to the receipts of the department.

I have the honor to be, respectfully, your obedient servant,

JOHN McLEAN.

Hon. JOHN GAILLARD.

## ANNUAL TREASURY REPORT.

TREASURY DEPARTMENT,

December 31, 1824.

SIR: I have the honor to transmit a Report, prepared in obedience to the "Act supplementary to the act to establish the Treasury Department."

I have the honor to be, with great respect, sir, your obedient servant,

WM. H. CRAWFORD.

Hon. SPEAKER

of the House of Representatives.

## REPORT.

In obedience to the directions of the "Act supplementary to the act to establish the Treasury Department," the Secretary of the Treasury respectfully submits the following Report:

### 1. Of the Public Revenue and Expenditure for the years 1823 and 1824.

The nett revenue which accrued from duties on imports and tonnage, during the year 1823, amounted to

\$ 17,008,570 80

The actual receipts into the Treasury during the year 1823, amounted to 20,540,666 26

Viz:

Customs	19,088,433 44
Public Lands	916,523 10
Dividends on stock in the Bank of the U. States	350,000 00
Arrears of internal duties and direct tax, and incidental expenses	131,951 69
Repayments of advances made in the War Department, for services or supplies, prior to 1st July, 1816	53,758 03
Making, with the balance in the Treasury on the 1st January, 1823, of	4,237,427 55

An aggregate of 24,778,093 81  
The actual expenditures during the year 1823, amounted to 15,314,171 00

Viz:

Civil, diplomatic, and miscellaneous	2,022,093 99
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Military service, including fortifications, ordnance, Indian Department, Revolutionary and military pensions, arming the militia, and arrearages, prior to 1st January, 1817	5,258,294 77
Naval service, including the gradual increase of the navy	2,503,765 83
Public debt	5,530,016 41
Leaving a balance in the Treasury, on the 1st January, 1824, of	9,463,922 81
The actual receipts into the Treasury during the three first quarters of the year 1824, are estimated to have amounted to	19,630,893 96
Viz:	
Customs	13,372,268 80
Public lands	768,805 10
Dividends on stock in the Bank of the U. States	330,000 00
Arrears of internal duties and direct taxes, and incidental receipts	97,321 37
Repayments of advances made in the War Department for services or supplies, prior to 1st July, 1816	42,498 69
Loan, under act of May 24, 1824, for paying the awards under the Florida treaty	5,000,000
And the actual receipts into the Treasury, during the fourth quarter of the year, including the moiety of the loan of five millions, authorized by the act of the 26th of May, 1824, for paying the 6 per cent. stock of 1812, are estimated at	7,350,000 00
Making the total estimated receipts into the Treasury, during the year 1824, And, with the balance in the Treasury on the 1st of January, 1824, forming an aggregate of	26,980,893 96 36,444,816 77
The expenditures during the three first quarters of the year 1824, are estimated to have amounted to	21,563,702 73
Viz:	
Civil, diplomatic, and miscellaneous	1,792,456 00
Military service, including fortifications, ordnance, Indian Department, Revolutionary and military pensions, arming the militia, and arrearages, prior to 1st Jan. 1817	4,548,374 49
Naval service, including the gradual increase of the navy	2,172,671 34
Awards under the Florida treaty	4,775,671 99
Public debt	8,274,528 91
And the expenditures during the fourth quarter are estimated at	10,374,445 13
Viz:	
Civil, diplomatic, and miscellaneous	580,870 11
Military service, including fortifications, ordnance, Indian Department, Revolutionary and military pensions, arming the mi-	

litia, and arrearages, prior to 1st January, 1817	765,346 35
Naval service, including the gradual increase of the navy	734,343 82
Public debt	8,293,884 85
Making the total estimated expenditure of the year 1824,	31,938,147 86

And leaving in the Treasury, on the 1st of Jan. 1825, an estimated balance of 4,506,668 91

It is to be observed, however, that this balance is not to be considered as subject to appropriation, as there is about an equal amount of unsatisfied appropriations, which, though not called for in the year 1824, are necessary for the objects for which they were severally made, and which are, therefore, an existing charge upon the means of the Treasury.

*2. Of the Public Debt.*

The funded debt which was contracted before the year 1812, and which was unredeemed on the 1st of Oct. 1823, amounted to \$ 16,597,318 58

And that which was contracted subsequently to the 1st January, 1812, and was unredeemed on the 1st of October, 1823, amounted to 73,854,545 45

Making the total amount of funded debt, unredeemed on the 1st of October, 1823 90,451,864 03

In the fourth quarter of that year, there was added in Treasury note 6 per cent stock 716 75

Making an aggregate of 90,452,580 78

And there was paid, in the reimbursement of deferred 6 per cent. stock 274,565 88

Reducing the funded debt on the 1st of January, 1824, to 90,178,014 90

From that day to the 1st of October last, there was added, in four and a half per cent. stock, under the act of May 24, 1824 5,000,000 00

Making an aggregate of 95,178,014 90

During the same period there was paid

The residue of the deferred 6 per cent. stock 357,546 26

And, in purchasing the 7 per cent. stock 4,123,397 10

Making together 4,480,943 36

And reducing the funded debt, on the 1st of October, 1824, to 90,697,071 54

In the fourth quarter of the year, it is estimated, there will be added, in  $\frac{4}{5}$  per cent. stock, under the act of May 26, 1824 2,500,000 00

Making an aggregate of 93,197,071 54

And, during the same period, it is estimated there

will be paid, for the redemption of the residue

of the 7 per cent. stock, 4,483,093 17

And, of the exchanged 6

per cent. stock, 2,668,974 99

Making together 7,152,068 16

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Which will reduce the funded debt, unredeemed, on the 1st of Jan. 1825, (including \$7,000,000 five per cent. stock subscription to the Bank of the U. States, for which the stock of the bank held by the Government is considered an equivalent,) to 86,045,003 38

The amount of Treasury notes outstanding on the 1st of October, 1824, is estimated, at 19,756 00

And the amount of Mississippi stock, unredeemed on that day, including awards not applied for, at 14,016 53

By the preceding exhibition of the fiscal operations of the year, it will be perceived that, if the expectations formed respecting the fourth quarter should be realized, the receipts will have exceeded the estimate presented at the last session of Congress, by about \$800,000. The only failure has been in the proceeds of the public lands; and that has been the result of a disappointment in regard to the relinquished lands; great portions of which were supposed to offer strong inducements to purchasers, in their fertility, and situation, and other circumstances. But, not only has the quantity sold been less than was anticipated, but owing, it is believed, in a great measure, to combinations of capitalists, by which actual settlers were deterred from competition, the price has not, with few exceptions, exceeded the minimum price fixed by law. It is to be observed, however, that the actual receipts from that source of revenue during the present year, will exceed those of the preceding year; and it is estimated that those for the ensuing year will not be less.

The gross amount of duties on imports and tonnage, which accrued from the first of January to the 30th of September last, inclusive, is estimated at \$19,000,000, and that of the whole year at \$22,500,000. Of this sum, that portion which accrued in the first half of the year, exceeds, by about \$630,000, and that in the three quarters by about \$1,200,000, the portions which accrued in the corresponding quarters of the preceding year.

The debentures issued during the three first quarters of the present year, amounted to \$2,952,000; which is less by \$460,000 than the amount issued during the corresponding period of the preceding year; and the amount of debentures outstanding on the 30th of September last, and chargeable upon the revenue of 1825, was \$1,004,000; which is less by \$401,000 than was, on the same day in 1823, chargeable upon the revenue of 1824.

The amount of bonds in suit, on the 30th September last, was \$2,909,000; which is \$92,000 more than was in suit on the same day of the preceding year. Deducting from the whole amount of duties outstanding on bonds and otherwise, on the 30th of September last, the debentures actually chargeable upon them and the bonds in suit, it is estimated, that the sum payable after the expiration of the present year, will be about \$12,200,000. This amount, however, is subject to debentures which may still be issued; but, as an allowance has already been made for those which are now chargeable upon it, no considerable deduction on that account is to be expected. A portion of the amount, also, is not payable until 1826; but the residue, together with so much of the duties accruing in the 4th quarter of the present, and in the whole of the next year, as may be received during that year, will, after deducting the expenses of collection, constitute the receipts from the customs during the year 1825.

The productiveness of the customs, however, depends upon the state of the foreign commerce of the nation. It is estimated that, in the year ending on the 30th of

September last, the value of domestic articles exported was \$49,684,710; which exceeded, by \$2,529,302, the amount exported in the preceding year; and that the value of foreign articles exported was \$25,248,782; which was less, by \$2,294,840, than the amount exported in the preceding year. The value of imports, during the same period, is estimated at \$78,516,183; which exceeds the imports of the preceding year by \$936,916.

For three years past, the average annual value of imports has been \$79,778,997; that of foreign articles exported 25,026,201; and that of domestic articles exported \$48,904,732. The little fluctuation that has taken place in these years, and the improvement in the last year, may be regarded as indications that the commerce of the country is tending to a regular and sound state. If no extraordinary events should occur to interrupt it, it is reasonable to infer that there will be no material or unfavorable change in the ensuing year.

For the two years ending on the 31st December, the average annual gross amount of duties on imports was \$23,227,835. This sum, upon the annual average value of the whole importations for the three years ending on the 30th of September, 1824, was 29.12 per cent.; and, upon the average amount of importations, after deducting the exports of foreign articles, it was \$42.42 per cent. For the same two years, the average annual nett amount of duties, including tonnage, &c. was \$18,758,931; and, for the reasons already stated, it may be presumed, that, independent of any influence which the new tariff may have upon the revenue, the amount which will be received into the Treasury from customs during the year 1825, will be about equal to that sum.

The operation of the new tariff upon the revenue cannot, now, be correctly estimated. On one important branch of imports, those from beyond the Cape of Good Hope, its provisions will not take effect until the 1st of January next. As it is only since the 1st of July last that it has been in operation in regard to other importations, and as the collectors are allowed, by law, three months for rendering their accounts, the addition caused by the new tariff cannot, even for that portion of the imports, and for one quarter of the year, be stated with perfect accuracy. It is believed, however, that the investigation which has been made with a view to that object, affords data for estimating its effects with sufficient exactness for the present purpose. It has been found that, upon the whole importations (estimating their value at the rates adopted in forming the statistical report) in the three quarters of the year ending on the 30th of June, 1824, the gross amount of duties was \$27.45 per cent.; and that, if the rates of the present tariff had been applied to the same importations, the duties would have amounted to \$30.30 per cent.; which is equal to an increase upon the amount of duties, of \$10.39 per cent. It also appears, that, in eight of the principal ports of the United States, the rate of duties upon the whole amount of importations during the third quarter of the year 1823, was \$28.36; and, during the corresponding quarter of the year 1824, it was \$30.98 per cent. But, it is to be observed that, in the third quarter of 1824, the importations from beyond the Cape of Good Hope were not subjected to the increased rates of the new tariff. These, it is estimated, would have made the rate of duties in that quarter \$31.40 per cent.; which is equal to an increase, upon the amount of duties, of \$7.57 per cent. The new tariff may, perhaps, have some effect upon the importation of those articles which pay high rates of duty, and for which articles of a lower rate may be substituted. But, as the value of the imports depends more upon the ability of the importing country to pay than upon the amount of duty levied upon the articles imported, it is not probable, that, under the present circumstances of the commerce of the United States, there will be any diminution in the



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aggregate. Upon the whole, therefore, it is believed that the revenue derived from imports will be increased by the operation of the new tariff in a ratio nearly equal to that in which it is estimated to have been increased during the third quarter of the present year in the ports above mentioned—or, about  $7\frac{1}{2}$  per cent. This increase, however, will produce less augmentation in the actual receipts into the Treasury during the year 1825 than in subsequent years.

With these views of the subject, the receipts into the Treasury, during the year 1825, are estimated as follows:

Customs	\$20,000,000	
Lands	1,000,000	
Bank dividends	350,000	
Miscellaneous and incidental	150,000	
<hr/>		
Making together	21,500,000	
And the residue of the loan authorized by the act of 26th of May last	\$2,450,000	
Forming an aggregate of		23,950,000

The expenditures of the year are estimated as follows:

Civil, diplomatic, and Miscellaneous	\$1,685,026 76	
Military service, including fortifications, ordnance, Indian Department, Revolutionary and Military pensions, arming the militia, and arrearages prior to the 1st of January, 1817	5,013,283 60	
Naval service, including the gradual increase of the navy	3,044,789 31	
Public debt, including a payment of \$7,654,570 93 of principal	11,962,063 97	
Making together		21,705,163 64

Which will leave in the Treasury, on the 1st of January, 1826, after satisfying all the demands of the year 1825, a surplus estimated at \$2,244,836 36

On the first of January, 1826, a large amount of debt incurred by the late war, viz: \$19,500,000 of the six per cent. stock of the year 1813, will be redeemable. As it is not probable that the surplus means of the year 1826 will more than equal the amount of the sinking fund for that year, only \$7,000,000 of that stock can be discharged out of the ordinary revenues of the year. On the 1st of January, 1827, the 6 per cents. of 1814, another portion of the war debt, amounting to \$13,000,000, will become redeemable; and, in that year, also, it is probable that not more than \$7,000,000 of the principal can be discharged. There will then remain in those two years \$18,000,000, which cannot be paid out of the revenue of those two years. In 1828, the amount of principal redeemable will probably not exceed the means of the Treasury. In the years 1829 and 1830, no part of the public debt is redeemable, and, in 1831, less than \$19,000. Policy would seem to suggest with a view both to the convenience of the government and the advantage of the community, that the excess of debt which cannot be discharged in 1826 and 1827, should be thrown in equal portions upon those years in which nothing is payable. For the present, however, it may be sufficient to confine such an arrangement to the excess of the year 1826. From the state of the money market, and the high credit of the Government, no doubt is entertained that the \$12,000,000 required to provide for the excess of the debt on the 1st of January, 1826, may be borrowed at 5 per cent. reimbursable in 1829, and 1830. And, if such an arrangement is approved, it is respectfully proposed that authority be given by law for that purpose.

The same object might, perhaps, be accomplished by an exchange of the stock redeemable on the 1st of January, 1826, for a 5 per cent. stock, redeemable in 1829 and 1830. But, it is believed that better terms may be obtained by a loan. A proposal for a loan invites competition from all the moneyed capitalists, including the Bank of the United States: whereas an exchange of stock confines the demand for the new stock to the holders of the old stock, who constitute not only a small portion of the capitalists, but a portion interested in preventing the accomplishment of the exchange. Moreover, the experience of the government, during the last two years, justifies the preference for a loan. In 1822, a law was passed authorizing an exchange of \$26,000,000 of the 7 per cents, and of the 6 per cents of the years 1812, '13, '14, and '15, for a 5 per cent. stock, redeemable in the years 1830, '31, '32, and '33, and only \$56,704 77 were exchanged: and, under the act of the last session, authorizing an exchange of 15,000,000 dollars, of the 6 per cents of 1813, only \$3,308,307 45 were exchanged.

Should the suggestion, herein offered, be adopted, for disposing of the excess of debt redeemable in 1826 and 1827, the amount of public debt, redeemable in each year, will be as follows:

In 1825,	\$7,654,570 93	of 6 per cents.
1826,	7,002,356 62	6 per cents.
1827,	7,001,437 63	6 per cents.
1828,	9,490,099 10	6 per cents.
1829,	6,000,000 00,	proposed to be at 5 per cent.
1830,	6,000,000 00,	the same.
1831,	6,018,901 59,	the same.
1832,	6,018,900 72,	of which \$1,018,000 72, are at 5 per cent. and 5,000,000 at $4\frac{1}{2}$ per cent.
1833,	6,673,055 31,	all at $4\frac{1}{2}$ per cent. except \$18,901 59, at 5 per cent.
1834,	1,654,153 73,	at $4\frac{1}{2}$ per cent.
1835,	4,735,296 30,	at 5 per cent.

This includes all the public debt of the United States, except 7,000,000 of 5 per cent. stock, subscribed to the capital of the Bank of the U. States, and \$13,296,231 45, of 3 per cents; both of which are payable at the pleasure of the government. As, under the foregoing view of the debt, all that will be redeemable after the year 1828, will be at an interest of 5 per cent., or less and as the 5 per cent. stock, subscribed to the Bank, is reimbursable in such portions as the government may please, any surplusses which may remain in 1829, and subsequent years, after discharging the debt redeemable, and proposed to be made redeemable, in those years, may be applied to the payment of that stock; or, if it be deemed advisable to reserve any such surplusses for other objects, there is no doubt that a sum sufficient to pay off that stock, may be obtained at  $4\frac{1}{2}$  per cent., or even at a lower rate of interest, reimbursable in 1834, in which year, it will be perceived, only a small sum is redeemable.

According to this exhibition of the subject, reckoning the principal and interest of the public debt, until its extinction, at about \$111,000,000, independent of the stock subscribed to the Bank, which may always be considered as offset by the government shares in the Bank, it will be perceived that, by allowing 10,000,000 annually, with an additional million in the first year, the whole of the public debt of the United States will be extinguished by the end of the year 1835.

In speaking of the public debt, it may be proper to notice the reduction that has been effected, during the last eight years, both in the amount of principal and rate of interest. On the 1st of January, 1817, the whole debt of the United States was \$123,491,965 16; of which \$115,257,895 48 were funded, bearing an average interest of \$5.56  $\frac{1}{2}$  per cent. per annum. On the 1st January next, the whole debt will be \$86,045,003 18, bearing an average interest of \$5.23  $\frac{1}{4}$ ; which shews a reduction

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of \$37,446,961 98 of principal, and of 0.36½ in the average rate of interest.

It is, also, deemed proper to state, that the loan of \$5,000,000 for the payment of the awards under the Florida Treaty, and the loan of \$5,000,000 for paying the 6 per cent. stocks of 1812, both of which were authorized at the last session of Congress, at 4½ per cent. have been taken by the Bank of the United States, at par. The means of discharging the awards under the Florida Treaty, were required so soon after the authority was given to make the loan, as not to leave time sufficient for receiving proposals from a distance; and the offer of the bank for the whole loan, at par, was accepted. For the subsequent loan, various proposals were received, amounting, in the whole, independently of that of the bank, to \$2,554,586 37, at rates varying between par and 4½ per cent. premium, and forming an average premium of 0.97½ per cent. on the whole amount offered. The proposal of the Bank was for the whole sum, at par. Although the individual offers are, apparently, more favorable than that of the bank, yet, taking into consideration that the Government is the proprietor of one-fifth of the capital of the bank, and that a portion of the means of the bank, equal to the amount of the loan, would otherwise have been unemployed; the offer of the bank at par, was decidedly the most advantageous to the Government; being equal to an individual offer of 4½ per cent. premium.

That, during the progress of the redemption of the public debt, a considerable amount may be applied, by a judicious management of the public revenue, to other than the ordinary objects of expenditure, is apparent, as well from a retrospect of what has been done, in the last eight years, as by a comparison between the probable receipts and expenditures in subsequent years.

For the eight years, commencing on the 1st of January, 1817, the total means of the Treasury, including a balance on hand, on that day, of \$22,033,519 19, and the sum of \$16,336,747 34, since derived from loans, may be estimated at \$210,275,899 11

And the total expenditure, at 205,769,230 20  
Of this amount, nearly one half will have been applied to the payment of the principal and interest of the public debt, viz. 101,365,900 67

To the payment of claims under the Florida treaty. 4,891,368 56

To the pensioners of the Revolution 9,400,000 00

To the erection of Fortifications 4,200,000 00

To the increase of the Navy 6,000,000 00

And, to the payment of demands arising out of the late war, not less than 4,500,000 00

Leaving, for all other objects of expenditure, including the civil list, intercourse with foreign nations, army and navy, pensions, arming the militia, building of light-houses, extinction of Indian titles, and surveying of public lands, &c. &c. &c. 75,400,000 00

Which sum, divided among the eight years, is about 9,425,000 00 per annum

It will be perceived, that, excluding the loans, the annual average of receipts, in those years, may be estimated at \$21,700,000 00; and, upon the data already shewn, the annual revenue, in subsequent years, may also be estimated at 21,500,000 00. Should no important change be made in the existing national establishments, the ordinary annual expenditures, exclusive of what may be required for the erection of fortifications, and the increase of the navy, may be estimated at about \$18,500,000 00. Thus, after providing for the annual demands for the payment of the principal and interest of the public debt, and for all the ordinary expenses of the Government, there will remain, for the next eleven

years, an annual surplus of about \$3,000,000: which, after the extinction of the debt in the year 1835, will receive an annual addition of the \$10,000,000 now appropriated to the public debt: which surplusses may be applied to such objects, conducive to the common defence and general welfare of the nation, as may be within the constitutional powers of Congress, and as they, in their wisdom, may deem proper.

All which is respectfully submitted  
WM. H. CRAWFORD.

TREASURY DEPARTMENT,  
December 31, 1824.

NEGOTIATIONS WITH FRANCE.

To the House of Representatives of the United States:

I transmit, herewith, to the House, a report from the Secretary of State, with copies of the correspondence with the government of France, requested by the resolution of the House, of the 26th of May last.

JAMES MONROE.

Washington, Dec. 23, 1824.

DEPARTMENT OF STATE,  
Washington, Dec. 23, 1824.

The Secretary of State, to whom has been referred a resolution of the House of Representatives, of the 26th of May last, requesting that the President of the United States would lay before that House, at the then next session, as early as the public interest would permit, the correspondence which might be held with the government of France, prior to that time, on the subject of injuries sustained by citizens of the United States, since the year 1806, has the honor of reporting to the President, copies of the documents requested by that resolution.

JOHN QUINCY ADAMS.

Extract of a letter from Mr. Adams (No. 1.) to Mr. Sheldon, dated Department of State, Washington, 13th August, 1823.

"I have had the honor of receiving your despatches No. 1 and 2; the latter dated the 10th of June. Mr. Gallatin arrived, with his family, at New York, on the 24th of that month.

"I enclose, herewith, copies of the recent correspondence between the Count de Menou, the Charge d'Affaires, of France, and this Département, on various subjects, highly interesting to the relations between the two countries.

"With regard to the Count's note of the 11th of July, the President received, with great satisfaction, the testimonial of the Viscount de Chateaubriand, to the candor and ability with which Mr. Gallatin has performed the duties of his official station in France. The proposal to renew the negotiation, in behalf of the well-founded claims of our citizens upon the French government, in connection with a claim, on the part of France, to special privileges in the ports of Louisiana, which, after a very full discussion, had, in the views of this government, been proved utterly groundless, could neither be accepted, nor considered as evidence of the same conciliatory spirit. The claims of our citizens are for mere justice. They are for reparation of unquestionable wrongs; for indemnity or restitution of property taken from them, or destroyed, without shadow or color of right. The claim under the 8th article of the Louisiana convention, has nothing to rest upon, but a forced construction of the terms of the stipulation, which the American government considered, and have invariably considered, as totally without foundation. These are elements not to be coupled together in the same negotiation, and, while we yet trust to the final sense of justice of France, for the adjustment of the righteous claims of

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our citizens, we still hope that their unquestionable character will, ultimately, secure to them a consideration unincumbered with other discussions. You will, respectfully, make this representation to the Viscount de Chateaubriand, with the assurance of the readiness of this government to discuss the question upon the Louisiana convention further, if desired by France, but of our final conviction that it is not to be blended with the claims of our citizens for mere justice."

*Count De Menou to Mr. Adams.*

[TRANSLATION.]

*Legation of France to the United States,  
WASHINGTON, July 11, 1823.*

His excellency the Viscount de Chateaubriand, in announcing to me that Mr. Gallatin was about to leave France, expresses his regret at his departure, in such terms, that I should do him injustice, were I not to use his own expressions: "My correspondence with this minister," he remarks to me, "has caused me to appreciate his talents, his ability, and his attachment to the system of friendship that unites the two powers. It is with regret that I suspend my communications with him."

I esteem myself happy, sir, in conveying to you such sentiments towards the representative of the U. States, in France; and I should have thought that I had but imperfectly apprehended the design of the Viscount de Chateaubriand, had I neglected to communicate them to the federal government.

The minister for foreign affairs reminds me also, on this occasion, that Mr. Gallatin, having frequently laid before him claims of Americans against the French government, he had shown himself disposed to enter upon a general negotiation, in which they should be comprehended with claims of French citizens against the federal government, at the same time with the arrangement relative to the execution of the 8th article of the treaty of Louisiana. The object of his excellency was to arrive at a speedy and friendly disposition of all difficulties that might subsist between the two powers, well assured that France and the United States would be found to have the same views of justice and conciliation.

His excellency regrets that Mr. Gallatin, who, he says, "has convinced him how pleasing and advantageous it is to negotiate with a statesman, who exhibits candor and ability in his discussions," did not receive from his government, during his stay in France, the necessary powers for this double negotiation. But he informs me that the government of his Majesty remains always disposed to open it, either with Mr. Gallatin, should he return with these powers, or with Mr. Sheldon, if the federal government should think proper to confer them on him.

I greatly desire, sir, to see these propositions acceded to by the federal government, and to be able to reply to his excellency, as he expresses his wish that an arrangement, putting an end to every subject of discussion, might soon be expected.

I pray the Secretary of State to receive the renewed assurance of my high consideration.

The Charge d'Affaires of France, near the U. States,  
MENOU.

*The Hon. Secretary of State.*

*Mr. Adams to Count De Menou.*

DEPARTMENT OF STATE,  
Washington, 12th August, 1823.

SIR: Your letter of the 11th of last month has been submitted to the consideration of the President of the United States, by whom I am directed to express the high satisfaction that he has felt, at the manner in which His Excellency the Viscount de Chateaubriand has noticed, in his correspondence with you, the temporary absence of Mr. Gallatin from France, and the terms of regard

and esteem with which he notices the character and conduct of that minister. The anxious desire of the President for the promotion of the good understanding between the United States and France, could not be more gratified than by the testimonial of his Most Christian Majesty's Government to the good faith and ability with which the minister of the United States at his court, has performed his official duties.

With regard to the assurance of His Excellency the Viscount de Chateaubriand's disposition to enter upon a negotiation with Mr. Gallatin, in the event of his return to France, or with Mr. Sheldon, during his absence, concerning the claims of citizens of the United States on the government of France, in connection with an arrangement concerning the 8th article of the Louisiana treaty, I am directed to observe that those subjects rest upon grounds so totally different, that the Government of the United States cannot consent to connect them together in negotiation.

The claims of the citizens of the United States upon the French government, have been of many years standing; often represented by successive ministers of the United States, and particularly by Mr. Gallatin, during a residence of seven years, with a perspicuity of statement, and a force of evidence, which could leave to the government of the United States no desire but that they should have been received with friendly attention, and no regret but that they should have proved ineffectual. The justice of these claims has never been denied by France; and while the United States are still compelled to wait for their adjustment, similar, and less forceful claims of the subjects of other nations, have been freely admitted and liquidated.

A long and protracted discussion has already taken place between the two governments, in relation to the claim of France, under the 8th article of the Louisiana convention; the result of which has been a thorough conviction on the part of the American Government that the claim has no foundation in the Treaty whatever. The reasons for this conviction have been so fully set forth in the discussion, that it was not anticipated a further examination of it would be thought desirable. As a subject of discussion, however, the American Government are willing to resume it, whenever it may suit the views of France, to present further considerations relating to it; but, while convinced that the claim is entirely without foundation, they cannot place it on a footing of concurrent negotiation with claims of their citizens, the justice of which is so unequivocal that they have not even been made the subject of denial.

From the attention which His Excellency the Viscount de Chateaubriand has intimated his willingness to give to the consideration of these claims, the President indulges the hope that they will be taken into view upon their own merits; and in that hope the representative of the United States at Paris, will, at an early day, be instructed to present them again, to the undivided and unconditional sense of the justice of France.

I pray you, sir, to accept the renewed assurance of my distinguished consideration.

JOHN QUINCY ADAMS.

The COUNT DE MENOUE,  
Charge d'Affaires from France.

*Extract of a letter from Mr. Sheldon, No. 11, to Mr. Adams, dated Paris, 16th Oct. 1823.*

"I took an early occasion, after the receipt of your despatch, No. 1 of the 10th August, to communicate the subjects of it, in a conversation I had with Viscount de Chateaubriand. His observations in relation to that of the claims, as connected with the pretensions of France, under the Louisiana treaty, were of a very general nature, and amounted to little more than a repetition of his readiness to enter upon the consideration of whatever subjects of discussion might exist between the

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two countries, and the expression of his satisfaction at the prospect of being soon relieved from the labor which the affairs of Spain had thrown upon him, and having thus more time to devote to those of the United States, and others not of the same pressing nature. He avoided any intimation of a disposition to take up the claims by themselves, and it can hardly be expected that the French Government will, at this time, relax from the ground they have so lately taken upon that point. I informed him that I should communicate in writing an answer to the overture made by Count de Menou, at Washington, for uniting in a new negotiation this subject with that of the Louisiana treaty, in substance the same as that gentleman had already received there, and should again press upon the French Government the consideration of the claims by themselves; to which he replied, that any communication I might make, would be received and treated with all the attention to which it was entitled, on his part."

Mr. Sheldon to the Viscount de Chateaubriand.  
PARIS, 11th Oct. 1823.

SIR: Mr. Gallatin, during his residence as Minister of the United States in France, had, upon various occasions, called the attention of his Majesty's government to the claims of our citizens for the reparation of wrongs sustained by them, from the unjust seizure, detention, and confiscation, of their property, by officers and agents acting under authority of the government of France.—During the past year, his Majesty's ministers had consented to enter upon the consideration of these claims, but they proposed to couple with it another subject, having no connexion with those claims, either in its nature, its origin, or the principles on which it depended—a question of the disputed construction of one of the articles of the treaty of cession of Louisiana, by virtue of which France claimed certain commercial privileges in the ports of that province. Mr. Gallatin had not received from his government any authority to connect these two dissimilar subjects in the same negotiation, or indeed to treat upon the latter, which had already been very amply discussed at Washington, between the Secretary of State of the United States, and his Majesty's minister at that place, without producing any result, except a conviction, on the part of the government of the United States, that the privileges for French vessels, as claimed by the Minister of France, never could have been, and were not in fact, conceded by the treaty in question. A stop was then put to the negotiations already commenced in relation to the claims, and with which had been united, on the proposition of the French government, and as being naturally connected with it, the consideration of certain claims of French citizens on the Government of the United States.

The charge d'affaires of France at Washington has lately, on behalf of his government, expressed, to that of the United States, a wish that this double negotiation might be resumed, and that a definitive arrangement might be made, as well in relation to the disputed article of the Louisiana treaty, as of the subject of the claims upon the one side, and upon the other. The Government of the United States has nothing more at heart than to remove, by friendly arrangements, every subject of difference which may exist between the two countries, and to examine, with the greatest impartiality and good faith, as well the nature and extent of the stipulations, into which they have entered, as the appeals to their justice made by individuals claiming reparation for wrongs supposed to have been sustained at their hands.

But these two subjects are essentially dissimilar; there are no points of connection between them; the principles upon which they depend are totally different; they have no bearing upon each other, and the justice which is due to individuals ought not to be delayed, or made de-

pendent upon the right or the wrong interpretation, by one or the other party, of a treaty having for its object the regulation of entirely distinct and different interests.

The reclamations of American citizens upon the government of France, are for mere justice; for the reparation of unquestionable wrongs; indemnity or restitution of property taken from them, or destroyed forcibly, and without right. They are of ancient date, and justice has been long and anxiously waited for; they have been often represented to the government of France, and their validity is not disputed. Similar reclamations, without greater merit or stronger titles to admission, presented by citizens of other nations, have been favorably received, examined, and liquidated; and it seems to have been, hitherto, reserved to those of the United States, alone, to meet with impediments at every juncture, and to seek in vain the moment in which the government of France could consent to enter upon their consideration.

Although the question arising under the 8th article of the Louisiana treaty has, already, been fully examined, the government of the United States is ready, if it is desired by France, and if it is thought that any new light can be thrown upon it, to discuss the subject farther, whenever it shall be presented anew by France to their consideration. But they are convinced that, by blending it with the claims, not only will no progress be made towards its solution, but that these last, standing upon their own unquestionable character, ought not to be trammelled with a subject to which they are wholly foreign.

I am instructed to bring them anew before your Excellency, and to express the hope of the President, that his Majesty's government will not continue to insist upon connecting together two subjects of so different a nature, but that the claims may be taken up on their own merits, and receive the consideration which they deserve, unincumbered with other discussions.

I request your Excellency to accept the assurance, &c.  
D. SHELDON.

Extracts of a letter from the Secretary of State to Mr. Brown, dated

WASHINGTON, 23d Dec. 1823.

"You will immediately, after your reception, earnestly call the attention of the French government to the claims of our citizens for indemnity."

"You will, at the same time, explicitly make known that this Government cannot consent to connect this discussion with that of the pretension raised by France, on the construction given by her to the 8th article of the Louisiana cession treaty. The difference in the nature and character of the two interests is such that they cannot, with propriety, be blended together. The claims are of reparation to individuals for their property, taken from them by manifest and undisputed wrong. The question upon the Louisiana treaty is a question of right, upon the meaning of a contract. It has been fully, deliberately, and thoroughly investigated, and the government of the United States are under the entire and solemn conviction that the pretension of France is utterly unfounded. We are, nevertheless, willing to resume the discussion, if desired by France; but, to refuse justice to individuals, unless the United States will accede to the construction of an article in a treaty, contrary to what they believe to be its real meaning, would be not only incompatible with the principles of equity, but submitting to a species of compulsion derogatory to the honor of the nation."

Extract of a letter (No. 2) from James Brown, Envoy Extraordinary and Minister Plenipotentiary of the United States, dated

"23th April, 1824.

"I have, in a letter to M. de Chateaubriand, copy of which I have now the honor to send, made an effort to

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separate the claims of our citizens from the Louisiana question."

*Mr. Brown to M. de Chateaubriand.*

PARIS, 28th April, 1824.

SIR: In the conference with which your Excellency honored me a few days ago, I mentioned a subject deeply interesting to many citizens of the United States, on which I have been instructed to address your Excellency, and to which I earnestly wish to call your immediate attention.

It is well known to your Excellency that my predecessor, Mr. Gallatin, during several years, made repeated and urgent applications to his majesty's government for the adjustment of claims to a very large amount, affecting the interests of American citizens, and originating in gross violations of the law of nations, and of the rights of the United States, and that he never could obtain from France, either a settlement of those claims, or even an examination and discussion of their validity. To numerous letters addressed by him to his majesty's ministers, on that subject, either no answers were given, or answers which had for their only object to postpone the investigation of the subject. Whilst, however, he indulged the hope that these delays would be abandoned, and that the rights of our citizens, which had been urged for so many years, would at length be taken up for examination, he learned, with surprise and regret, that his majesty's government had determined to insist that they should be discussed in connection with the question of the construction of the 8th article of the Louisiana treaty of cession. Against this determination he strongly, but ineffectually, remonstrated, in a letter to Mr. de Villele, dated the 12th November, 1822.

It is notorious that the government of the United States, whenever requested by that of his majesty, have uniformly agreed to discuss any subject presented for their consideration, whether the object has been to obtain the redress of public or private injuries. Acting upon this principle, the question of the 8th article of the Louisiana treaty was, upon the suggestion of the minister of France, made the subject of a voluminous correspondence, in the course of which all the arguments of the parties, respectively, were fully made known to each other and examined. The result of this discussion has been a thorough conviction on the part of the government of the United States, that the construction of that article of the treaty contended for by France is destitute of any solid foundation, and wholly inadmissible. After a discussion so full as to exhaust every argument on that question, the attempt to renew it in connection with the question of the claims of our citizens, appeared to the government of the United States to be a measure so contrary to the fair and regular course of examining controverted points between nations, that they instructed Mr. Sheldon, their charge d'affaires, to prepare and present a note, explaining their views of the proceeding, which he delivered on the 11th of October, 1823. To this note no answer has ever been received.

I have the express instructions of the government again to call the attention of that of his majesty to this subject, and to insist that the claims of our citizens may continue to be discussed as a distinct question, without connecting it in any way with the construction of the Louisiana treaty. The two subjects are, in every respect, dissimilar. The difference in the nature and character of the two interests is such as to prevent them from being blended in the same discussion. The claims against France are of reparation to individuals for their property taken from them by undisputed wrong and injustice. The claim of France under the treaty, is that of a right founded on a contract. In the examination of these questions, the one can impart no light to the other: they are wholly unconnected, and ought, on every principle, to undergo a distinct and separate examination. To in-

volve, in the same investigation, the indisputable rights of American citizens to indemnity for losses, and the doubtful construction of a treaty, can have no other effect than to occasion an indefinite postponement of the reparation due to individuals, or a sacrifice on the part of the government of the United States of a treaty stipulation, in order to obtain that reparation. The United States would hope that such an alternative will not be pressed upon them by the government of his majesty.

Whilst I indulge a hope that the course to which I have objected, will no longer be insisted on by his majesty's ministers, permit me to renew to your excellency the sincere assurance that the United States earnestly desire that every subject of difference between the two countries should be amicably adjusted, and all their relations placed upon the most friendly footing. Although they believe that any further discussion of the 8th article of the Louisiana treaty would be wholly unprofitable, they will be, at all times, ready to renew the discussion of that article, or to examine any question which may remain to be adjusted between them and France.

I request your excellency to accept, &c.

JAMES BROWN.

His exc'y VISCOUNT DE CHATEAUBRIAND,  
*Minister of Foreign Affairs, &c.*

*Extract of a letter (No. 3) from James Brown to the Secretary of State, dated*

PARIS, 11th May, 1824.

"I have the honor to enclose a copy of the answer of the Minister of Foreign Affairs to the letter which I addressed to him on the 27th ultimo, upon the subject of the claims of our citizens against the French government. You will perceive that no change has been made in the determination expressed to Mr. Gallatin, of connecting in the same discussion the question on the 8th article of the Louisiana treaty of cession, and the claims of the citizens of the United States against France. In expressing this resolution, it has not been considered necessary even to notice the arguments made use of to induce them to adopt a different opinion."

[TRANSLATION.]

*Viscount Chateaubriand to Mr. Brown.*

PARIS, 7th May, 1824.

SIR: The object of the letter which you did me the honor to address to me on the 28th of April, is to recall the affair of American claims, already repeatedly called up by your predecessors, that they may be regulated by an arrangement between the two powers, and that, in this negotiation, the examination of the difficulties which were raised about the execution of the 8th article of the Louisiana treaty should not be included.

Although the claims made by France, upon this last point, be of a different nature from those of the Americans, yet no less attention ought to be paid to arrange both in a just and amicable manner.

Our claims upon the 8th article had already been laid before the federal government by his Majesty's Plenipotentiary, when he was negotiating the commercial convention of 24th June, 1822.

The negotiators not agreeing upon a subject so important, the King's government did not wish this difficulty to suspend, any longer, the conclusion of an arrangement which might give more activity to commerce, and multiply relations equally useful to the two powers. It reserves to itself the power of comprehending this object in another negotiation, and it does not renounce, in any manner, the claim which it urged.

It is for this reason, sir, that my predecessors and myself have constantly insisted, that the arrangements to be made upon the 8th article of the Louisiana treaty, should be made a part of those which your government



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were desirous of making, upon other questions still at issue.

It is the intention of his Majesty not to leave unsettled any subject of grave discussion between the two states; and the King is too well convinced of the friendly sentiments of your government not to believe, that the United States will be disposed to agree with France on all the points.

His Majesty authorizes me, sir, to declare to you, that a negotiation will be opened with you upon the American claims, if this negotiation should also include the French claims, and particularly the arrangements to be concluded concerning the execution of the 8th article of the Louisiana Treaty.

Accept, sir, the assurances of the very distinguished consideration with which I have the honor to be, &c.

CHATEAUBRIAND.

*Extracts of a letter (No. 4,) from the Secretary of State to Mr. Brown, dated*

DEPARTMENT OF STATE,

Washington, Aug. 14, 1824.

"The subject which has first claimed the attention of the President has been, the result of your correspondence with the Viscount de Chateaubriand, in relation to the claims of numerous citizens of the United States upon the justice of the French government.

"I enclose, herewith, a copy of the report of the Committee of Foreign Relations of the House of Representatives, upon several petitions addressed to that body at their last session, by some of those claimants; and a resolution of the House, adopted thereupon.

"The President has deliberately considered the purport of M. de Chateaubriand's answer to your note of the 28th of April, upon this subject; and he desires that you will renew, with earnestness, the application for indemnity to our citizens, for claims notoriously just, and resting upon the same principle with others which have been admitted and adjusted by the government of France."

"In the note of the Viscount de Chateaubriand to you, of 7th May, it is said, that he is authorized to declare, a negotiation will be opened with you, upon the American claims, if this negotiation should also include French claims, and particularly the arrangements to be concluded concerning the execution of the 8th article of the Louisiana treaty."

"You are authorized, in reply, to declare, that any just claims which subjects of France may have upon the government of the United States, will readily be included in the negotiation; and to stipulate any suitable provision for the examination, adjustment, and satisfaction of them."

"But the question relating to the eighth article of the Louisiana treaty is not only of a different character—it cannot be blended with that of indemnity for individual claims, without a sacrifice, on the part of the United States, of a principle of right. The negotiation for indemnity presupposes that wrong has been done; that indemnity ought to be made; and the object of any treaty stipulation concerning it can only be, to ascertain what is justly due, and to make provision for the payment of it. By consenting to connect with such a negotiation that relating to the 8th article of the Louisiana convention, the United States would abandon the principle upon which the whole discussion concerning it depends. The situation of the parties to the negotiation would be unequal. The United States, asking reparation for admitted wrong, are told that France will not discuss it with them, unless they will first renounce their own sense of right, to admit, and discuss with it, a claim, the justice of which they have constantly denied."

"The government of the United States is prepared to renew the discussion with that of France, relating to the

8th article of the Louisiana treaty, in any manner which may be desired, and by which they shall not be understood to admit that France has any claim under it whatever."

Mr. Brown to Mr. Adams—No. 12.

PARIS, August 12, 1824.

SIR: Some very unimportant changes have taken place in the composition of the Ministry. The Baron de Damas, late Minister of War, is now Minister of Foreign Affairs; the Marquis de Clermont Tonnessé is appointed to the Department of War; and the Count Chabrol de Crousal to that of the Marine.

These appointments are believed to correspond with the wishes of the President of the Council of Ministers, and do not inspire a hope that our claims will be more favorably attended to than they have been under the former administrations. The interpretation of the 8th article of the Louisiana treaty, contended for by France, will, I apprehend, be persisted in, and all indemnity refused until it shall have been discussed and decided.—After the correspondence which has already passed upon that article, it would appear that any further discussion upon it would be wholly unprofitable. With a view, however, of ascertaining the opinions of the Minister of Foreign Affairs, I shall, at an early day, solicit a conference with him, and inform you of the result.

I have had the honor of receiving your letter, recommending the claim of Mr. Kingston to my attention. The difficulties which that claim must experience, from its antiquity, and from the operation of the treaty of 1803, cannot have escaped your observation. It has also to encounter, in common with all our claims, the obstacle presented by the 8th article, which is found broad enough to be used as a shield to protect France, in the opinion of Ministers, from the examination and adjustment of any claim which we can present.

I have the honor to be, with great respect, sir, your most obedient and humble servant,

JAMES BROWN.

Mr. Brown to Mr. Adams—No. 14.

PARIS, September 28, 1824.

SIR: Little has occurred, of importance, during the present month, except the death of the King. This event had been anticipated for nearly a year; he had declined gradually, and the affairs of the government have been, for some time, almost wholly directed by Monsieur, who, on his accession to the throne, has declared that his reign would be only a continuation of that of the late King. No change in the policy of the Government is expected, and probably, none in the composition of the Ministry. The present King is satisfied with Mr. de Villele, who is at its head, and if any of its members should be changed, the spirit in which public affairs are directed will not, it is believed, be affected by that circumstance.

The ceremonies attending the change of the crown, have principally occupied the public attention for the last fortnight. It will, I presume, be officially announced by the French Minister at Washington, and, according to the forms observed here, will, I understand, require fresh letters of credence for all foreign Ministers at this court, addressed to the new King.

My health has not permitted me (having been confined, for some weeks, to the bed, by a rheumatic affection,) to confer with the Baron de Damas on our affairs, since his appointment as Minister of the Foreign Department. I should regret this the more, if I were not satisfied that the same impulse will direct the decisions of the Government, upon these points, now, as before he had this Department in charge, and that no favorable change, in those decisions, can be expected from any personal influence which might be exerted by the

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new Minister. I shall, however, take the earliest opportunity that my health will allow, to mention the subject to him, and ascertain what his views of it are.

I have the honor to be, with great respect, sir, your most obedient and humble servant,

JAMES BROWN.

*Extracts of a letter from Mr. James Brown to Mr. Adams.—No. 16.*

"PARIS, October 23, 1824.

"The packet ship which sailed from New York on the 1st of September, brought me the letter which you did me the honor to address to me on the 14th of August."

"In conformity with the instructions contained in that letter, I have addressed one to the Baron de Damas, Minister of Foreign Affairs, a copy of which I now enclose. I expect to receive his answer in time to be sent by the packet which will sail from Havre on the 1st of next month, in which event it may probably reach Washington about the 15th of December."

"The recent changes which have been made in the ministry, of which I have already informed you, do not justify any very strong expectation that a change of measures, in relation to our affairs at this court, will follow. The same individuals fill different places in the ministry from those which they formerly held, but, in all probability, adhere to their former opinions in relation to the subjects of discussion between the United States and France. On the point to which my letter to the Baron de Damas particularly relates, the Count de Villele has already given his deliberate views in his letters to Mr. Gallatin, dated 6th and 15th November, 1822, and I have every reason to believe that they remain unchanged. Having bestowed much attention on the subject, it is probable his opinion will be, in a great measure, decisive as to the answer which shall be given to my letter. It is the opinion of many well-informed men, that, in the course of a few months, important changes will be made in the composition of the ministry. As these changes, however, will proceed from causes wholly unconnected with foreign affairs, I am by no means sanguine in my expectations, that, under any new composition of the ministry, we may hope for a change of policy as it relates to our claims. The 8th article of the Louisiana treaty will be continually put forward as a bar to our claims, and its adjustment urged as often as we renew our claim for indemnity."

"The Journal des Debats, of this morning, states, that, at a superior Council of Commerce and of the Colonies, at which his Majesty yesterday presided, Mr. de St. Cricq, President of the Bureau de Commerce, made a report on the commercial convention of the 24th June, 1822, between the United States and France."

*Mr. Brown to Baron de Damas.*

PARIS, 22d October, 1824.

SIR: I availed myself of the earliest opportunity to transmit to my government a copy of the letter which I had the honor to address to the Viscount de Chateaubriand, on the 28th day of April last, together with a copy of his answer to that letter, dated 7th of May.

After a candid and deliberate consideration of the subject of that correspondence, my government has sent me recent instructions to renew with earnestness the application, already so frequently and so uneffectually made, for indemnity to our citizens for claims notoriously just, and resting on the same principles with others which have been admitted and adjusted by the government of France.

In reply to that part of the Viscount de Chateaubriand's letter, in which he offers to open with a negotiation upon American claims, if that negotiation should

also include French claims, and particularly the arrangements to be concluded concerning the 8th article of the Louisiana treaty, I have been instructed to declare, that any just claims which the subjects of France may have upon the government of the United States, will readily be embraced in the negotiation; and that I am authorized to stipulate any suitable provision for the examination, adjustment, and satisfaction of them.

The question relating to the 8th article of the Louisiana treaty, is viewed by my government as one of a very different character. It cannot be blended with that of indemnity for individual claims, without a sacrifice, on the part of the United States, of a principle of right. Every negotiation for indemnity necessarily presupposes that some wrong has been done, and that indemnity ought to be made; and the object of every treaty-stipulation respecting it, can only be to ascertain the extent of the injury, and to make provision for its adequate reparation. This is precisely the nature of the negotiation for American claims which has been for so many years the subject of discussion between the governments of the United States and of France. The wrongs done to our citizens have never been denied, whilst their right to indemnity has been established by acts done by the French Government in cases depending upon the same principles under which they derive their claim. By consenting to connect with such a negotiation that relating to the 8th article of the Louisiana treaty, the United States would abandon the principle upon which the whole discussion depends. When asking for reparation for acknowledged wrong, the United States have been told that France will not discuss it with them, unless they will first renounce their own sense of right, and admit and discuss, in connection with it, a claim, the justice of which they have hitherto constantly denied. In any negotiation commenced under such circumstances, the situation of the parties would be unequal. By consenting to connect the pretensions of France under the 8th article of the Louisiana treaty, with claims for indemnity for acknowledged injustice and injury, the United States would be understood as admitting that those pretensions were well founded; that wrong had been done to France, for which reparation ought to be made. The government of the United States, not having yet been convinced that this is the case, cannot consent to any arrangement which shall imply an admission so contrary to their deliberate sense of right.

I am authorized and prepared, on behalf of the United States, to enter upon a further discussion of the 8th article of the Louisiana treaty, in any manner which may be desired, and by which they shall not be understood previously to admit that the construction of that article, claimed by France, is well founded; and also to renew the separate negotiation for American claims, embracing, at the same time, all just claims which French subjects may have upon the government of the United States.

The change which has lately taken place in his majesty's department of foreign affairs, encourages the hope that this important subject will be candidly reconsidered; that the obstacles which have arrested the progress of the negotiation may be removed; and that the subjects of contestation between the two governments may be ultimately adjusted upon such principles as may perpetuate the good understanding and harmony which have so long subsisted between the United States and France.

Should I, however, be disappointed in the result of this application, it is to be seriously apprehended that, as the United States have not hitherto seen, in the course of the discussion, any just claim of France, arising from the 8th article of the Louisiana treaty, so, in the persevering refusal of the French government to discuss and adjust the well-founded claims of citizens of the United States to indemnity for wrongs, unless in connection with one which they are satisfied is unfounded, the United

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States will ultimately perceive only a determination to deny justice to the claimants.

Permit me, respectfully, to request, that, at as early a day as your convenience will allow, your excellency will favor me with an answer to this letter.

I embrace, with pleasure, this occasion to offer to your excellency the renewed assurance, &c.

JAMES BROWN.

His Excellency BARON DE DAMAS,  
Minister of Foreign Affairs, &c.

*Letter from the Comptroller of the Treasury to the Chairman of the Committee of Commerce, upon the subject of licensing, enrolling, and exacting a Tonnage Duty on Canal boats or vessels.*

TREASURY DEPARTMENT,

Comptroller's Office, 31st December, 1824.

SIR: The Secretary of the Treasury has referred to me your letter to him of the 19th instant, enclosing a resolution of the Legislature of New York, on the subject of canal boats, in relation to which you submit the following points for the consideration of this Department, viz:

1st. "In what manner, if in any, will the collection of the revenue be affected by admitting boats which are employed solely in navigating canals, to navigate the same without taking out licenses, or enrolments and licenses?"

2d. "Should such boats be admitted to navigate canals without licenses, or enrolments and licenses, that have a communication with lakes or bays, which open a direct intercourse with the territorial possessions or colonies of a foreign power or state, what provisions, if any, will be necessary to prevent smuggling, or violations of the laws providing for the collection of the revenue accruing from duties levied on merchandise imported into the United States, from such territorial possessions or colonies?"

In reply to the first question, I have to observe, that if it should be thought proper to exempt canal boats from taking out licenses, or enrolments and licenses, and such exemption be confined to such boats only as are exclusively employed within the limits of the canals, it is not perceived that such a regulation would affect the collection of the revenue in any manner whatever.

If, then, the exemption be restricted to boats thus employed, I have to observe, in reply to the second question propounded, that, to prevent impositions on the revenue, the following additional precautionary measures in and of the existing laws may be necessary, in relation to the boats or vessels which may bring the goods, wares, and merchandise, to the places of deposit at which the canal boats will take in their lading.

1. That the master or commander of every boat or vessel, whether registered or licensed, engaged in the coasting trade on lakes, bays, gulfs, or rivers, which open a direct intercourse with the territorial possessions or colonies of any foreign power or state, and into which lakes, bays, gulfs, or rivers, there is a canal communication, should, on being destined from one port of the U. States to another port thereof, (if the latter be a port or place at which the canal boats take in their lading,) before her departure from the port at which she may be, make out and subscribe duplicate manifests of the whole of the cargo on board of such boat or vessel, as well of that part consisting of domestic as of that part consisting of foreign goods, wares, or merchandise, of both kinds, specifying in such manifests what part consists of foreign, and what part of domestic goods, together with the marks and numbers of every cask, bag, chest, package, &c. of each description of goods, as well domestic as foreign, with the name and place of residence of every

shipper or consignee, and the quantity shipped by, and to each; and if there be a collector, or other officer of the customs residing at such port, or within — miles thereof, he shall deliver such manifests to such collector or other officer of the customs, before whom he shall swear or affirm, to the best of his knowledge and belief, that the foreign goods composing part of his cargo, and specified in such manifests, were legally imported, and the duties thereon paid, or secured to be paid; whereupon the collector or other officer of the customs, shall certify the same on the said manifests, one of which he shall return to the said master with a permit, specifying thereon, generally, the whole of the lading on board such vessel, distinguishing the foreign from the domestic part, and authorizing him to proceed to the port of his destination.

2. That, if any boat or vessel, registered or licensed, so employed and destined as aforesaid, whether laden with domestic or foreign goods, wares, or merchandise, or in part of one and in part of the other of the said descriptions of goods, wares, or merchandise, should depart from the port where she may then be, without the master or commander having first made out and subscribed duplicate manifests of the lading on board such boat or vessel, and in case there be a collector, or other officer of the customs residing at such port, or within — miles thereof, without having previously delivered the same to the said collector, or other officer of the customs, and obtaining a permit in manner before described, such master or commander shall forfeit and pay — dollars.

3. The master of every boat or vessel, registered or licensed, employed and destined as aforesaid, laden with either domestic or foreign goods, wares, or merchandise, or in part of one, and in part of the other of said descriptions of goods, and arriving at a port or place at which canal boats receive their lading, to be conveyed from one part of a canal to another part thereof, should, previous to the unloading of any part of the cargo of such boat or vessel, deliver to the collector or other officer of the customs, residing at the port of her arrival, the manifest of the cargo, certified by the collector or other officer of the customs, from whence she sailed, (if there be such manifest,) otherwise the duplicate manifests thereof, as before directed, to the truth of which, before such officer, he shall swear or affirm. And if there shall have been taken on board such boat or vessel, any other or more goods than are contained in such manifests, subsequently to her departure from the port from whence she first sailed, the same kind of manifests and the same proceedings ought to be had in relation to such additional cargo, at such port as at the first port of departure; and in case there shall have been landed any goods, wares, or merchandise, at any intermediate port between such port and the port or place at which canal boats take in their lading, a certificate ought to be produced from the collector or other officer of the customs, residing at such intermediate port, if there be such officer, and if not, but one be residing within — miles thereof, then from such officer, specifying the kind and quantity of such goods so landed, the place where taken on board, together with the numbers and marks of the casks, bags, boxes, chests, packages, &c., and in case there shall be no such officer residing at such port, nor within — miles thereof, then the master or commander ought to make out a particular list of the goods so landed at such intermediate port, to the truth of which he ought to swear or affirm. Whereupon, the collector or other officer of the customs, residing at the port or place at which the canal boats take in their lading, should grant a permit for unloading thereat, a part or the whole of such cargo, as the said master or commander may request; and in case he should neglect or refuse to comply with any of these regulations, he ought to forfeit and pay — dollars.

4. That, at every port or place at which coasting vessels, whether registered or licensed, engaged on lakes, bays, gulfs, or rivers, as aforesaid, may land their cargoes, and at which the canal boats take in their lading, if there be no collector or other officer of the customs, now residing thereat, there should be such other officer appointed, to whom such compensation ought to be allowed as the Secretary of the Treasury may consider just and reasonable.

It will be perceived from an examination of the provisions of the 14th and 18th sections of the act for enrolling and licensing vessels, passed the 18th of February, 1793, coasting vessels are required to make out duplicate manifests, and obtain permits or clearances only in case of having a certain quantity of *distilled spirits* on board, or certain foreign goods of certain quantities, or of certain values; but according to the preceding contemplated regulations, those vessels will be required to make out duplicate manifests of their cargoes, without regard to the nature thereof, whether of domestic or of foreign goods, or of both kinds of goods, and without regard to the quantities or values of either.

By such a course, the officers of the customs will have a better opportunity of detecting frauds on the revenue, which, it is apprehended, are already carried on to some extent in the districts on the lakes, and, if not checked, might increase, from the additional facilities which the contemplated exemption in favor of canal boats will afford.

With great respect, I have the honor to be, your obedient servant,

JOS. ANDERSON, *Comptroller.*

HON. THOMAS NEWTON,

*Chairman of the Committee of Commerce.*

## REPORT

*Of the Committee on Naval Affairs on the subject of Piracy, in House of Representatives, January 11, 1825.*

The Committee on Naval Affairs, to whom was referred a resolution of the House of Representatives, of the 9th of December, instructing them to inquire into the expediency of providing an additional naval force, and other additional means for the suppression of Piracy, respectfully report :

That they have had the subjects proposed in the said resolution, under their consideration, and have made diligent inquiry into the operations of our naval force, which, for the last two years, has been employed in the Gulf of Mexico, for the protection of our commerce and the suppression of piracy. In this investigation, they feel a satisfaction in stating, that the means employed have displayed the vigilance of the government, and the activity, zeal, and devotion, of the officers and seamen who have been assigned to that perilous service ; perilous, not from the numbers or courage of the enemy, but from the deleterious effects of a tropical climate upon natives of a more temperate region. The vessels procured for this service were better adapted to a short expedition, than to long and tedious cruises. They were too small to afford the room necessary to preserve the discipline and the health of the officers and seamen assigned to them; yet, they enabled the commander to scour the coast, to penetrate into the shoal waters of the creeks and inlets, to the very margin of the land ; and, in effect, the pirates have literally been driven from the ocean, and confined to their fastnesses and haunts upon the land. Accordingly, their principal depredations, for the last twelve or fifteen months, have been confined to occasional sallies in boats and small craft, within one or two leagues of the shore. While these depredations, however, have been more limited in extent and in num-

ber, they have more frequently been attended with the most desperate and sanguinary destruction of the lives of the unfortunate victims.

It becomes necessary for the Government to adapt the force to the existing character of the evil ; and the committee are of opinion, that the best species of force which can be employed in future, while the piracies are confined to small craft, are the boats and launches which are attached to larger vessels. Sloops of war of the largest class may be well provided with launches and boats, of which several might be constantly employed in ferreting out these marauders, and bringing them to condign punishment.

But the Committee are of opinion, that, though the addition of three or four sloops to our West India squadron, might, by constant vigilance, afford great additional security to our commerce and those engaged in it, yet they have reflected that these plunderers easily transfer themselves from one island to another ; and, when effectually hunted from one of their haunts, they are speedily found in parts where the unarmed trader, having no protection or means of defence, becomes an easy prey. They have, also, recurred to several instances, where a resolute resistance by a small crew of intrepid seamen has repelled the assailants, even when the disparity of force might have been expected to produce a different issue. From which it is manifest, that these wretches, who assume the vocation of pirates, are as dastardly as they are cruel, and may be generally repelled by a well armed crew, though not much exceeding the usual complement of the vessel.

The opinion has been expressed in some of the memorials of our principal cities, that the permission to the merchants to prepare a suitable armament for their defence, would be embraced at least to a sufficient extent to deter, in many instances, the attacks of boats from the shore, or to repel the foe in case he should attempt to carry by boarding. The committee believe that, if a considerable number of trading vessels should provide themselves for resistance, and a few instances of successful resistance should be the consequence, the effect would be highly salutary, and would greatly discourage these banditti, by rendering their vocation dangerous and fruitless. They are aware that the commerce of the West Indies is attended with too small a profit to warrant any considerable increase of expense to the merchants and owners of vessels; and, as the protection of trade is the duty of the government, as well as required for the prosperity of our revenue and general resources, they, therefore, deem it sound policy to rely upon this measure merely as auxiliary to the most energetic efforts; and to the ample means placed at the disposal of the Executive.

The committee have not overlooked the notorious fact, that the local authorities of the West India Islands, particularly those of Cuba and Porto Rico, have afforded shelter and protection to the pirates, and have given a character of boldness to their enterprises, which it may be impossible wholly to repress without resorting to measures which may induce those authorities to unite their means in earnest in the extirpation of these foes of the human race. Whatever may be the personal feelings of some of the local Governors, they may, perhaps, find it difficult to restrain the cupidity by which a great portion of the community are so completely demoralized. In the island of Porto Rico, a species of legalized plunder has been for several years tolerated, if not encouraged, by the chiefs of the island, which, if not so sanguinary as in other cases, has, in other respects, differed but little from ordinary piracy. It belongs rather to the duty of another committee to devise means suitable to meet an exigency so singular, and, at the same time, demanding the most prompt and vigorous measures.

While the utmost circumspection should be employed in maintaining the rights and dignity of our country,

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not to violate those of other nations, it cannot be denied that a scrupulous adherence to the letter of national law, in regard to the territories under the nominal jurisdiction of a nation remote from the scene of action, distracted and feeble at home, and scarcely felt or feared in her remote islands and colonies; must amount to an indefinite denial of redress to our own citizens; must embolden injustice and violence, and impede or frustrate the most vigorous efforts of our naval force in the protection of our commerce against such an unhallowed combination of local jurisdiction and desperate outlaws.

The committee forbear to indicate the course which alone remains to remedy these outrages upon our rights and our dignity, not doubting that, from another source, we may soon see submitted a plan which comports with our justice and moderation, as well as with our interest and security.

They respectfully submit a bill in conformity with these views for the consideration of the House.

### REPORT

*Of the Committee of Foreign Relations of the House of Representatives, on Piracy and Outrages on American Commerce by Spanish Privateers.*

JANUARY 31, 1825.

The Committee of Foreign Relations, to whom was referred so much of the President's message to Congress at the opening of the present session, as relates to piracy and the outrages committed upon our commerce by vessels bearing Spanish commissions, and the memorials from different quarters of the Union on the same subjects, availing themselves of the documents accompanying the President's message to the Senate, of the 13th of January, which have been printed by order of that body, present to the House the result of their deliberations upon the subject submitted to them:

From the commencement of the Revolution, which has terminated in the separation of Spanish Continental America from Old Spain, the commerce of the United States, in common with that of all other nations, has suffered frequent outrages from the vessels of the adverse parties, duly commissioned, with doubtful commissions, and from pirates who sought to conceal their true character by the use of the flag of some one of the belligerents. Constant efforts have been made by this Government to redress injuries suffered, and to prevent future outrage. Congress have, at all times, been prepared to give, and have afforded, all the means necessary for these purposes within their province.

The act of the third of March, 1819, was passed specially to protect the commerce of the United States, and punish the crime of piracy. It gave to the President power (a power, however, which the President possesses without an act of Congress) to employ the public armed vessels of the United States to protect our merchant vessels and their crews from piratical aggression and depredation, to authorize the detention, capture, and trial, of any armed vessels which attempted any piratical depredation, search, seizure, or restraint, of an American vessel. It authorized our merchant vessels to capture armed ships not commissioned by a friendly power, and to recapture vessels taken by them; it directed the condemnation of the vessels so captured or recaptured; and it provided for the punishment of the pirates, when convicted by the competent tribunals. This act was limited to one year, but was continued in force by the act of May 15, 1820, for two years, and the first four sections made perpetual by the act of the 30th January, 1823.

The re-establishment of the Constitutional Government in Old Spain, in March, 1820, inspired the strongest hope that the contest between Spain and Spanish Continental America would be soon amicably terminated,

in a manner satisfactory to the parties at war, to the commercial and civilized world, and to all the lovers of humanity, justice, and liberty. The first movements of the regenerated government promised a speedy realization of this hope.

The Cortes of Spain directed negotiations to be opened with Spanish America: commissioners were appointed; but the contending parties did not take the same view of the great questions between them. Old Spain would not admit the recognition of the independence of the Spanish American Governments, as the basis of negotiation; and the Spanish American Governments would not negotiate without that preliminary recognition. While these abortive attempts at negotiation were made, there was a temporary cessation of hostilities in Venezuela. The war, however, was renewed in Venezuela before the negotiations were broken off. Fortune favored the Americans; and the European Spaniards were driven from the continent. During this desperate contest, General Morales, the commander of the Spanish forces, issued his extraordinary proclamation, declaring a coast of twelve hundred miles in a state of blockade, and interdicting all foreign commerce with the Spanish Main, as inconsistent with the colonial law of Old Spain. This proclamation has been the fruitful source of most of the evils since suffered by all commercial nations in the West Indies, and in the Gulf of Mexico. Numerous pirates, and swarms of privateersmen, (subsequently degenerated into pirates,) have preyed upon all neutral commerce. Protection to that of the United States should have been, if it has not been, afforded—against pirates, by the use of all the necessary means under the control of the Executive; by a vigorous exertion of the naval power; by incessant watchfulness on the seas, and on the coasts infested by them; rigorous examination of all suspected vessels of every size; ardent pursuit of the persons found *flagrante delicto*, wherever they sought refuge; careful prosecution, before the competent tribunals, of all the accused, who were taken; unrelenting severity in inflicting punishment, where guilt was judicially established—against privateersmen, by appeals to the Government of Spain, requiring immediately redress for the past, and security for the future: if made in vain, application should have been made to Congress, to authorize reprisals, or to declare war, as the extent of the injury, and a due regard to the condition of the Spanish Government, should have required. A further reference, however, to the past, would not be useful. For the present, and for the future, if legislative provisions are necessary, they should be made.

Piracy at present exists in the same form as in the year 1822, when a species of naval force, supposed to be particularly adapted to suppress it, was placed at the disposal of the Executive. This force was believed to have answered the expectations entertained of it, as the President, at the opening of the last session of Congress, announced that, "it had been eminently successful in the accomplishment of its objects." If further experience has shown that this species of force is inadequate to the accomplishment of the object, and that another may be advantageously substituted, there can be no doubt of the propriety of the substitution. This is a point, however, that the committee do not consider it their duty to examine; it belongs properly to another committee, the result of whose deliberations upon it has been already presented to the House. The merchants of the United States, who have, with the exception of our seamen, the deepest interest in this subject, suggest the propriety of suffering the owners of vessels to arm for their own defence. There is no law forbidding such defensive armament, nor is any law required to justify it. It is, however, asserted, that the restraints upon the armament of merchant vessels are inconvenient and oppressive, and that they ought to be removed. The on-



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ly provision on this subject is, that which requires bond and security to be given to prevent an unlawful use of the armed vessel; a provision which should not be changed—an adherence to which the best interest of commerce requires.

The propriety of authorizing by law the pursuit of the pirates on land, has also been a subject of consideration. The committee do not deem an act of Congress for this purpose necessary. The rule of international law is, that fugitives from the justice of one nation are to be considered in another as strangers entitled to protection, and having a right of residence; on the common principle, that no nation has a right to punish a person who has not offended itself, nor is it bound to assist its neighbor in the execution of its criminal laws. Pirates are criminals against all nations, punishable in every tribunal: the common enemies of mankind; the duty of all nations, and every man is, to hunt them down, that they may be delivered up to offended justice. Fresh pursuit of enemies into the territory of a common friend, is not universally admitted to be a right of war. Powerful nations never permit feeble neighbors to enter their territory for this purpose, but enter without scruple in pursuit of their enemies, the territory of such neighbors, unless restrained by the apprehension that the mutual friend seeks a fair occasion to become an ally against them in the war. Practically, the question is one not of right, but of relative power. The pursuit of a mutual enemy into the territory of a friendly or allied power, is a right of war: it cannot be deemed a violation of the sovereignty of that power; it confers a favor, and imposes upon him an obligation of gratitude.

The common enemy cannot avail himself of the protection of the territory of the third power, but by surrendering himself as a prisoner of war, and in that event, if the force of the pursuer was the cause of the surrender, the pursuer might rightfully claim the benefit of the surrender. Under this rule the pursuit and capture of pirates any where, and every where, may be justified. The Executive has acted upon it. Instructions have been given to our naval commanders to pursue, and capture on Spanish territory, pirates who seek refuge or concealment there. The government of Spain has been duly warned of the existence of these orders; it knows that they will be obeyed. No remonstrance has been made by it; no objections have, as far as the committee have been informed, been urged. The acquiescence of Spain is all that should be desired. A distinction is supposed to exist between pursuit of pirates on lands uninhabited, and on those inhabited; and it is imagined that the authority of Congress is necessary to justify pursuit in the latter case, while in the former, the power of the Executive alone is sufficient. The committee do not admit the correctness of this distinction. Fresh pursuit is justifiable in either case, if necessary to the capture of the pirate. There is greater danger of collision with the friendly power, when the object of pursuit flies into a settled country, and greater care is requisite to avoid giving offence; but the same principles apply to either case; and it is just as necessary that Congress should legislate to justify the capture of pirates, as to authorize the pursuit of them into any place of refuge inhabited or unsettled.

From an attentive examination of the letters of the agent who was sent to Cuba to obtain information, relative to the pirates who have long infested the coast of that island, it would seem that no fresh pursuit on land will eradicate the evil. Authority must exist to search in the suspected settlements for persons believed to be guilty of piracy, and for the evidence of their guilt, and to bring them before our tribunals for trial and punishment. This authority Congress cannot give without making war upon Spain. It cannot be used without wresting from Spain her municipal jurisdiction. The evil lies too deep to be reached by any ordinary measures, which foreign powers can apply to it.

The Government of Spain must give to the local authority what it is said to want—sufficient strength to prevent and to punish criminals: it must perform its duties, or those who suffer from its neglect or weakness will be driven, by the necessity of the case, to apply the corrective. The committee would bring more distinctly into view the only efficient remedy, and recommend a resort to it, if they believe a sufficient time had elapsed since remonstrances were made by our Government to Spain, to prove incontestably that she wanted either the power or the will to do her duty, although they are aware that the conduct of any government in applying that remedy without previous concert with other nations alike interested in the question, would be liable to misconception, and excite well-founded jealousies. The committee cannot doubt that the Executive, applying all proper means to prevent, to detect, and to punish, the crime of piracy, and pressing upon Spain, and her local authorities, that the honor and the interest of Spain requires the best exertions for the same purpose, will not fail to confer with the great commercial nations on the extraordinary measures to be used, if the object is not speedily accomplished by the faithful exertion of the powers of Spain.

The danger to which our commerce is exposed, and the injuries it has suffered from privateers acting under regular or irregular commissions, are of a different character, and require a different remedy. The committee understand that outrages of this kind have almost, if not entirely ceased; for those which have been inflicted, or which may hereafter be inflicted, Spain is directly responsible. Reparation must be had—by negotiation, or by the exercise of such powers as may, for that purpose, be vested in the Executive by Congress.

To guard against future injury, the safest resource is, to enforce promptly ample redress for that which has been suffered. The committee have already referred to the injuries suffered in consequence of the proclamation of Morales. Those injuries are not yet redressed. The Government of Spain has not attempted to justify a proclamation declaring, with a naval force insufficient to shut up the smallest port on the coast, a seacoast of twelve hundred miles in a state of blockade, nor the absurd pretension that the property of all neutral nations, is, under the colonial law of Spain, liable to confiscation, if taken on its way to Spanish America; but the property of American citizens captured by privateers from the islands of Porto Rico and Cuba, and from Porto Cabello, is now withheld under these pretensions. The Spanish Government having formally revoked the blockade, gives to the tribunals of Spain an excuse for the condemnation of all property seized prior to that revocation—an excuse of which they do not hesitate to avail themselves. Acting under instructions from the President, of the 28th of April, 1823, the Minister of the United States, at the Court of Spain, demanded satisfaction in January, 1824, from that Government, for the outrages committed from Porto Cabello, and the islands of Porto Rico and Cuba, upon the commerce of the United States, and for the wanton murder of one of our gallant officers in the harbor of Saint John's, by the officer commanding the fort at its entrance. In September of the same year, Spain was again called upon to indemnify those who had suffered in person or property under the proclamation of blockade, or from the interdiction of neutral commerce to the Spanish Main. In October, the just reclamations of our Government were, for the third time, formally made to the Government of Spain. No satisfaction has been given; no indemnity has been promised; nor has there been even a satisfactory excuse given for the delay to answer the just demands of the Minister of the United States.

The character of the injury sustained, its origin, the period elapsed since it was inflicted, the formal and fruitless demand for reparation for more than twelve months, justify reprisals. An anxious desire not to act

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harshly to a government embarrassed by internal difficulties, and enfeebled by recent revolutions, the distance of the seat of the Spanish Government from the places in which the evils complained of originated, the death of the Minister appointed by the Spanish Government on the eve of his departure to this country, and the recent selection of another Minister, whose appointment and intended departure for the United States, has been communicated in an official letter, a translation of which is herewith presented to the House, induce the committee not to propose any legislative enactment, under the firm conviction that this forbearance will give to Spain a new motive to make speedily ample reparation for the injuries sustained, and that, if it does not produce this desired effect, it will justify, in the eyes of all nations, any and every step Congress may hereafter be compelled to take.

DEPARTMENT OF STATE,

Washington, Jan. 24, 1825.

SIR: I have the honor of enclosing, herewith, a translation of the only answer yet received from the Spanish Government to Mr. Nelson's notes on the subject of piracy and outrages on our commerce. It has been received since the communications to Congress of the previous documents were made.

I am, with great respect,

Sir, your very humble and obed't serv't,

JOHN QUINCY ADAMS.

JOHN FORSYTH, Esq.

Chairman of the Committee of Foreign Relations,  
House of Representatives, U. S.

[TRANSLATION.]

Mr. Zea Bermudez to Mr. Nelson.

SIR: From the middle of September last, when I took possession of the appointment which the kindness of the King, my august master, deigned to entrust to me, I dedicated, by order of His Majesty, my attention to the different notes presented by you, relative to the claims of the American subjects, who thought themselves entitled to be indemnified by Spain for the losses which they have suffered in the seas of America. A business so complicated, in which considerable interests are involved, presented so much more difficulty, by how much there were intermingled with it other interests and other claims of Spanish subjects against the government and subjects of the United States.

His Majesty, desirous of preserving the friendship and good harmony which happily subsists between both nations, and that, in faithful observance of existing treaties, both Governments should terminate, in a friendly manner, this delicate question, the legitimate rights, and just pretensions of both being mutually conciliated, has thought that the most proper means for gaining this desired end, is to send immediately a Minister Plenipotentiary, to reside near the American Government, who, by his information, prudence, and practical knowledge of the relations between both countries, may be at the same time the interpreter and the executor of the just intentions of the King. In consequence, His Majesty has been pleased to appoint Don Jose de Heredia, his Envoy Extraordinary and Minister Plenipotentiary in the United States of America. He will set out for his new destination as soon as possible.

I hasten to inform you of this, that you may be pleased to lay it before your Government; and I avail myself of this occasion, to repeat to you the assurances of my most distinguished consideration. God preserve you many years.

Your most obedient servant,

FRANCISCO DE ZEA BERMUDEZ.

San Lorenzo, 19th Nov. 1824.

## REPORT

*Of the Committee on Foreign Relations in the Senate of the United States, on so much of the President's Message as relates to Piracies,*

JANUARY 10, 1825.

That our commerce for years has been harassed, and the lives of our citizens destroyed by pirates, issuing from the colonies of Spain in the West Indies, is a fact derived not only from the Message of the President, but is of universal notoriety. These outrages have been so long and so often repeated, and marked with such atrocious circumstances, that a detail of the particular cases would be as impracticable as unnecessary. Our Government, with a view to protect our citizens, has resorted to the means within their power, by stationing a naval force near the places where the pirates resort; a measure also pursued by other Powers. Every effort, heretofore, has been unavailing to put an end to these atrocities. These desperadoes, acquiring confidence from impunity, becoming more ferocious from habit, and multiplying by recruits from the most abandoned of other nations, threaten the most disastrous mischiefs, justly alarming to that highly valuable and most respectable portion of our fellow-citizens, whose pursuits are on the high seas. It is manifest, as well from facts derived from other sources, as from the Message of the President, that the continuance of this evil is ascribable to the asylum afforded the banditti in the colonies of Spain. The Government of the United States, cherishing the most amicable disposition towards Spain, has presented the subject with great earnestness to the Spanish Government, demanding reparation for the past, and security for the future. To these reiterated remonstrances, no answer was returned till very recently, and to this day all that has been obtained is a promise of a satisfactory answer to the applications of the Government of the United States: although Spain has been solemnly warned that if she did not promptly acquit herself of her obligations to us on this subject, our Government would be constrained, from the nature of the outrages, to become its own avenger, and, availing itself of its own resources, protect the commerce and lives of the American citizens from destruction. In the same spirit of conciliation an appeal has been made to the local authorities, accompanied with a request that if, from weakness, they were unable to exterminate the hordes of banditti who took shelter from pursuit within their territories, that permission might be given our forces to pursue them on land. This has been denied on the vain punctilio of national dignity. The posture in which Spain now stands, is that of connivance in these injuries, or incapacity to prevent them. "A Sovereign who refuses to cause reparation to be made of the damage caused by his subject, or to punish the guilty, or, in short, to deliver him up, renders himself an accomplice in the injury, and becomes responsible for it." If the committee were of opinion that the refusal on the part of Spain was wilful, and not the result of inability, they would, with a full view of all the consequences which the measure involves, at once recommend an appeal to the last resort of nations against Spain and all her dependencies; but believing as they do that courtesy requires that her refusal to do us justice should be placed on the ground of inability—an inability resulting from causes which the committee intentionally forbear to enumerate, they content themselves with recommending only such measures as are believed to be indispensable effectually to reach the mischief. And hence, they beg leave to present a bill, with suitable provisions, for the end designed.

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Report from the Navy Department.

[Senate.]

## REPORT FROM THE NAVY DEPARTMENT.

NAVY DEPARTMENT,  
January 1st, 1825.

To the President of the Senate of the U. S.

SIR: In obedience to the resolution of the Senate, of the 25th of May last, I have the honor to present the following report:

The paper marked A, is a report made by the Fourth Auditor of the Treasury, which shews "the amount of travelling expenses, and other allowances received by the officers of the Navy, and of the Marine Corps, over the monthly pay and rations to which they are by law entitled, in each year, for the last three years."

This amount embraces all the payments except monthly pay and rations, made to officers within the time mentioned, whether the services for which the payments were made, were rendered within that period, or previous to it. Our naval officers are frequently out of the country two or three years at a time; and, when in it, are sometimes so situated as to prevent them, without neglect of duty, from presenting their claims for adjustment with punctuality, and at definite periods.

Each settlement of their accounts, therefore, embraces not only their claims for the preceding year, but for the whole period since their last settlement; and, in giving an answer to this part of the resolution, it was found impossible to separate the one from the other, without an examination of every voucher, and restatement of every item of the accounts: a labor which could not be performed since the resolution was passed; and which was supposed not to be called for by it. This amount, therefore, will be understood to embrace all the claims and accounts, settled and allowed within the last three years, preceding the first day of January last.

For the sums paid to each officer, and the objects for which they were paid, a general reference may be had to the reports annually made on the contingent expenses of the Navy. There are about fifty officers in the Marine Corps, and nearly nine hundred in the Navy. The amount stated, contains the accounts of, and allowances to, almost all of this number.

None of the allowances are designed, nor do they operate, as additional pay to the officer, for his time and services in his station: for these, the monthly pay and rations are the compensation prescribed by law; but they are intended to meet the expenses to which he is exposed, and the liabilities to which he is subjected, in discharging the duties assigned him, and without which it would often be impossible to obey the orders he receives. This will be hereafter illustrated by some of the items in the accounts.

The average amount of travelling expenses in each of the three years, paid to all the officers in the Navy, appears to be \$19,541, and to all the officers of the Marine Corps, appears to be \$6,639. The principle by which this allowance is made, is settled and uniform.

When any officer travels under the orders of the Department, or of his superior, on the business of the public, and not for his own convenience, he is allowed 15 cents per mile.

This is never paid when engaged in private transactions, or changing his duties at his own request, and not for the benefit of the public. The sum allowed is the same for officers of all grades, is supposed to be about the average expense of travelling in this country, and is absolutely necessary to enable our officers to obey the orders given to them. They are appointed from all parts of the Union, and often obliged to travel great distances to join stations or vessels.

Such must always be the case with those from the Western states. The duties to be performed also, frequently require them to be transferred from one place to

another. The expense of their journeys often equals the greater part, in some instances, the whole, of their pay. And if they must themselves bear it, only those upon our seaboard, and the rich who are able and willing to labor, without compensation, can belong to the service.

It is both just to the individual, and beneficial to the public, that the allowance be made. For its safe and faithful expenditure, reliance must, in this case, as in others, be had, in the first instance, on the intelligence and integrity of those who give the orders, and in the second, of those who settle the accounts: both of whom must pass upon them. The amount of \$272,633 93, embraces all the sums paid to officers, exclusive of monthly pay and rations, travelling expenses, and expenses incident to courts martial. It includes a great variety of items, and among others, the following: Premiums and expenses for recruiting; chamber money and house rent; fuel and candles; commissions and clerk hire; store and office rent of navy agent, and storekeeper; postage upon letters on public business; toll; sick quarters; purveying and care of medical stores; extra service in surveying, &c. &c. In every system of well organized public force, in all countries, most of these items form a part of the fundamental law creating it; and do not assume the character of allowances by Executive regulation, but enter into the estimates for its support. It is the misfortune of the Navy of the United States, never to have received any organization by law, nor to have been favored by the Legislature with a system into which they could be engrafted. They have, therefore, been left to temporary expedient and regulation, created from time to time as a necessity for them was felt. Under such circumstances, regularity and economy have been sought, and, as far as possible, effected. A few remarks on two or three of the items, will explain their character and necessity.

### *Expense of Recruiting.*

A considerable portion of the amount is formed by this item. Rendezvous for recruiting must, from the nature of that business, be opened in those thickly settled parts of our cities, to which sailors are in the habit of resorting, and accommodations must be procured for the purpose; officers of prudence and skill must be appointed to superintend them, and made responsible for the manner in which they discharge the duty and expend the money; and if they are imposed on as to the health, or capacity of the recruit, or negligently permit him to desert, they must be subjected to loss. The annexed paper B, is a copy of Regulations, lately prepared, to be added to, and explain, those previously existing on the subject, and will exhibit a part of the duty and liability of the recruiting officer; and as the public afford him no accommodations, of any description, his actual expenses are also great. Under these circumstances, and to urge on the enlistments, the Commanding Officer of the Rendezvous has heretofore been allowed \$4 for each recruit, and the inferior officer \$1 50 per day, to pay his board and expenses. The bill reported at the last session proposes to reduce the allowance from \$4 to \$3. Chamber money and house rent are allowed when an officer is ordered to perform a duty confining him to a particular place, and there is no vessel or building where he can eat or lodge, as when attached to, and performing duty in a Navy Yard, or preparing his vessel for sea, and it is not in a situation for him to live on board; nor is there any other vessel or house, belonging to the public, for his accommodation. Compelled to obtain lodging and board, and often at very extravagant prices, his pay would be consumed by them, and therefore he is allowed, either chamber money at \$2 per week, if his duty be temporary; or house rent, at its usual rate at the place, if the duty be permanent. This expense, which is not small, will be in a great degree,

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if not entirely, avoided, when the necessary improvements are made in our yards.

*Commissions on disbursements of Public Money.*—It sometimes happens, in the changes which occur upon our distant stations, by deaths and otherwise, and the necessity to which our squadrons are subjected, that our naval officers, whose general duty and office are altogether unconnected with the moneyed concerns of the Department, are obliged to negotiate and disburse money for the use of the officers, men, and vessels, under their command, in doing which they are liable to risks and losses. In such cases, upon the settlement of their accounts, a small per centage has been allowed on the money so negotiated and disbursed.

*House rent, store rent, postage, fuel, clerk hire, stationery, &c. to Navy Agents and Storekeepers.*—It is doubted whether these items come strictly within the call made by the resolution; but as the Agents and Storekeepers were officers attached to the Navy Department, and as these allowances are not the monthly pay and rations fixed by law, it was thought proper to add them. They are regulated by settled rules, and tend largely to swell the amount.

*Per diem allowance on extra duty, such as surveying public property, proving cannon, surveying the coasts, harbors, &c.*—This allowance is designed merely to meet the extra expense to which the officer is subjected; and the greater part of that which has arisen from the survey of the coast, &c. has been provided for by, and paid out of, the appropriations made by several laws passed upon the subject, and has not been taken from the appropriations made for the support of the Navy; but as the sums received by the officers, were an allowance over the monthly pay and rations, it was necessary to add them to the others.

*Purveying and Care of Medicines.*—To ensure the economical purchase, safe keeping, and proper disposition of medicines and medical stores, both for our ships and navy yards, it has been found necessary not to entrust the duty to each of the Surgeons and Mates attached to them, but from time to time to assign it to old and experienced Surgeons, in addition to their ordinary duties, and to make a reasonable allowance for it. It is not doubted, however, that it may be performed more usefully and economically under the provisions of the bill reported at the last session.

There are other items, but it is not believed to be necessary to make any remark respecting them. They are all designed, not as additional pay to the officer, but to meet the extra expense and liability imposed on him, in obeying the orders which he receives, and without which he could not obey them, nor could the service be supported; are governed by fixed rules; and have most of them existed from the commencement of the Navy, and been confirmed and authorized by the annual appropriations. Some of them, it has been proposed by the Department, should be incorporated into permanent legal provisions, organizing the naval establishment.

This Department is not informed of any "emoluments received by the officers of the Navy and Marine Corps, from the Government, in consequence of their official stations," unless the allowances heretofore mentioned may be considered in that light; nor is it perceived that they can in any way derive "emolument from other sources," unless by means of the premium or compensation allowed to them, by individuals for whom they carry silver, gold, or jewels. Any other use of their official character, for private emoluments, would be criminal, and, if known, subject them to punishment. It is not believed that an imputation of this offence can properly attach to them. By the 23d article of the "act for the better government of the Navy of the United States," it is provided, that "if any commander, or other officer, shall receive, or permit to be

received on board his vessel, any goods or merchandise other than for the sole use of his vessel, except gold, silver, or jewels, and except the goods or merchandise of vessels that may be in distress, or shipwrecked, or in imminent danger of being shipwrecked, in order to preserve them for their owner, without orders from the President of the United States, or the Navy Department, he shall, on conviction thereof, be cashiered, and be incapacitated forever afterwards for any place or office in the Navy." Under the authority of this provision, no emoluments could be derived from carrying any thing but the excepted articles; these have always been carried, when offered, and it could be done, consistently with the faithful discharge of the duties in which the officer was engaged. His risk and responsibility in the benefit he renders to the owner by carrying his property, is often great, and requires a corresponding compensation. This compensation is regulated in England, by Orders in Council, authorized by statute; no law has yet been passed upon the subject in this country, and the Executive has not believed, since the passage of the law referred to, that it possessed the power, either to forbid the carrying of specie altogether, or to fix the compensation for doing it; but merely to see that the officer, while exercising his legal privilege, did not abuse his official character, to purposes of fraud and oppression.

It has consequently been left to the discretion of the officer and the owner of the property, to make their own agreements about the premium for the freight, and these not being official, have, heretofore, not been made known to this Department, and the sums received cannot, therefore, be stated. It has been thought proper, however, for reasons which will readily present themselves, to require that such a statement should be made upon the subject as would enable the Department to be perfectly apprized of the conduct of those under its control, and the use they make "of their official stations," in transactions of this kind. An order was, therefore, prepared, as a part of the instructions to Commodore Hull, when he took the command in the Pacific Ocean, a copy of which is hereto annexed, and marked C. The same order has been given to all officers who have been, since that time, in command of squadrons or separate vessels. If any evil have heretofore resulted from this provision of our law, it is hoped that a remedy will be found in this order, so far as it is within the power of this Department to apply the remedy. If it be deemed necessary to prescribe the premium, that power properly belongs to the Legislature. There has yet been received but one report on the subject, and that does not furnish the precise information which is due, in answer to a call from the Senate of the United States.

The paper A exhibits the expense of Courts Martial, in the Navy, in each year, in the last three years, with the amount paid to Judge Advocates, and others, for their attendance and services. The paper D designates the places at which such courts martial were ordered to be held; and the stations from which the officers composing the same, were detailed to attend.

The number of officers subject to trials by courts martial, is about 850; the average number of men in the Navy, is about 3,780.

Neither the expense nor the number of courts can be considered large; but it is confidently believed that both may, in future, be lessened, should Congress think proper to make certain provisions on the subject, which will be hereafter alluded to. The allowances to officers attending courts martial, either as members or witnesses, are, travelling expenses, &c. \$1 50 per day, while attending the Court, except to those upon the station where the Court is held, whose situation is such that they are most subjected to additional expense. In designating the number of members required by law, care is taken to select such as will create least expense,

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and whose character and condition, as to the accused, give the best security of justice to him and to the public. By the reports on the contingent expenses of the Navy, which have been referred to, it will be perceived that considerable sums have been paid, at different times, to Judge Advocates. This has arisen from the fact, that there is no person attached to the service whose legal acquirements, and acquaintance with legal proceedings, fit him for the discharge of all the duties of the office.

The Department would illy perform its obligations, either to the public or the accused, by appointing one to perform them who was incompetent; and those who were qualified could not be expected to neglect their regular and profitable employments, for a temporary engagement, without full compensation.

Paper E exhibits the same information respecting courts martial in the Marine Corps, as is exhibited by D, and respecting those in the Navy.

Paper F and G, exhibits the number of desertions from the Marine Corps, and the number of rank and file, confined for imprisonment, as a punishment for desertion or misconduct, for each year, during the last three years.

In answer to that portion of the resolution which requires the Secretary of the Navy to report "his opinion on such alterations or further provisions of law as he may consider it expedient to be made, in order to promote a more perfect discipline of the Navy and Marine Corps, to prevent the frequent recurrence of courts martial, and ensure to the public service, in the said establishments, the highest degree of economy and efficiency;" the following remarks are respectfully submitted.

Discipline and the prevention of offences, economy, and efficiency, in every military or naval establishment must depend on its fundamental organization, the regulations connected with it, and their enforcement, and the intelligence and skill of the officers attached to it. There must be a regular and systematic organization, plain and simple rules, skillful and intelligent officers, or no labor, industry, or wisdom, in the head which directs it, can produce the desired results, to any very profitable extent. But, if these advantages exist, a failure to produce those results may well be the subject of censure. The Military Establishment of the United States is, at this moment, the best possible argument and illustration which can be made upon this point. The Naval Establishment of the United States may be said never to have had a legal organization. Temporary acts, authorizing specific matters, relating to the building of vessels, and the numbers of one or two of our grades of officers, are to be abundantly found; but there is not, in our whole code, a law, giving an organization, prescribing the number and grades of all our officers—number of our yards and stations—pay and emoluments of those who are attached to the service. It requires no labor of argument to shew that, in such a state of things, they who have had to direct, and those who have had to execute, have equally felt the want of fixed and uniform guides to their conduct. The first "alteration" or "provision of law," then, which appears to be necessary to effect the proposed objects, is a law organizing the Navy Establishment. What that law ought to be, in the opinion of the Department, will be found in the report of the plan, made during the last session of Congress.

To that report, therefore, reference is now made. It is necessary only to add, that daily experience, since that time, has confirmed the views then presented.

Should a law of that character be passed, it will be important, immediately, to prepare regulations depending upon, and adapted to it, for the discipline and management of every part of the service. To the formation of these regulations, the best intelligence within the command of the Department would necessarily be brought; and, being submitted to the wisdom of Con-

gress, their adoption would free from uncertainty, and furnish fixed and safe rules, as guides to all.

The Department is not aware of any alteration, by law, beyond those specified, which would be necessary for the economical administration of the moneyed concerns of the Department.

Those concerns are divided into two parts; that which relates to the purchase and care of "naval stores and materials; and the construction, armament, and equipment of vessels of war"—which is managed by a Board of Commissioners, under the superintendence of the Secretary.

The other, which relates to the pay and compensation of all persons in any way connected with the service, which is exclusively under the direction and control of the head of the Department. The latter, it is believed, has been, heretofore, economically administered; and, under the proposed organization and regulations, with the aid of the laws respecting the advance of public moneys, and the settlement of public accounts, may be so conducted as to squander nothing, and to lose little. The former has, heretofore, been managed by the Board in a way deserving the highest commendation. Its contracts and expenditures have, in general, been judicious, cautious, and economical. It was created in February, 1815. The law "concerning disbursements of public money," and forbidding advances, was passed in January, 1823. It has, therefore, existed almost ten years, during eight of which, advances were not forbidden; it has made contracts for, and superintended, the expenditure of \$15,500,000; and it is believed that nothing has yet been lost, and that not more than \$15,000, if any, are in danger of being lost.

It is but just to add, that the members, confining themselves to their prescribed duties, have been found valuable auxiliaries; and that the improvement of our vessels, yards, and equipments, is proof that their skill and science are not inferior to their industry and economy.

The next "alteration" which seems to be called for, is the revision of the law "for the better government of the Navy of the United States." It was passed in May, 1800, and has remained without amendment. It relates to offences and trials, punishments and rewards, subjects of great importance in every service. Offences which are the objects of punishment, ought to be plainly and precisely stated, that every one may understand what he is to avoid, and may certainly know when he is criminal; and that those who would bring accusations may be sure that they do it justly. There is great defect in the law upon this point; a defect which has been the cause of much inconvenience and relaxation of discipline. It is so extremely vague and indefinite, that it is often not easy to frame a charge, justified by its words, even against those who have acted most incorrectly, without a resort to some general expression, such as "unofficer-like," or "scandalous conduct," and joining to it a specification embracing the particular circumstances, which might as well be added to any other charge, or to no charge. It results that the accused and the Court are both in doubt how to proceed; and the legality of what is done, is questionable, even where there is no hesitation that the accused had been guilty, and merits rebuke. The effect may readily be imagined. Among men varying in habits, education, principles, and feelings, there are always some that must be coerced, by plain law, rigidly enforced. Some who regard the provisions of the law as the only restriction on the freedom of thought and action, which, as citizens, they are accustomed to enjoy. Where it is not clear and explicit, they perform acts dangerous and reprehensible, which they do not perceive prohibited by positive enactments. Others are induced, by the same cause, to prefer charges, for that which they suppose violates the spirit of the code. The former are tempted to irregular and improper conduct, the latter to arraign, without just



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cause, those who are obnoxious to them. The tribunal, too, which is called to pass upon accusations, is left without a certain guide, to the exercise of an arbitrary discretion, and to the formation of decisions, governed rather by extraneous causes, such as the character and standing of the parties, than a just estimate of the charges and the evidence. Guilt ceases to be the only, yet certain, ground of punishment. The weight of the sentence, whether of condemnation or acquittal, is proportionably diminished. Thus, in every way, does this want of precision and certainty in the law, tend to the multiplication of Courts Martial, the destruction of discipline, and of the correspondent efficiency and economy. This law is equally unguarded as to the punishment, leaving every thing to the discretion of the Court, not only as to its extent, but also as to its nature: "At the discretion of a Court Martial," and "death or such other punishment as a Court Martial shall judge," are its common phraseology. And where the crime is not specified in the meagre list which is given, the punishment is to be "according to the laws and customs in such cases at sea." It is, indeed, limited by no rule as to kind, and, in most cases, by no extent short of death. It should not remain in this condition. It should be military, and proportioned to the offence. We need not dwell upon the consequences to the accused, the public, and the Court, from this cause. The law ought to be altered. The punishment should be ascertained in a proper scale, from private reprimands, through all the grades of public reprimands, suspension from duty, suspension without pay, suspension from rank and pay, dismissal, and death. But it is not enough that crimes and punishments be properly defined and limited. To the improved law, must be added an improved administration of it.

No change is necessary in the organization of our Courts. They are composed of the proper persons, and of the proper numbers, but they require aid in discharge of their duties, which they do not now possess. Although, on questions of sound and honorable feeling, they are safe, yet their education and habits are not those best adapted to all the judicial functions. Regularity, correct application of legal principles, even some technicality, is essential to correctness in their proceedings. They, more than ordinary judges, require well defined rules and systems of practice, and they have none such to which they can appeal.

A very small portion of the English system, based upon their statutes, can apply to Courts acting under ours.

It sometimes happens that, relying upon British precedents, they are misled; at others, fearing to trust them, they wander into error. And when situated as they thus are, we recollect the vital influence which their decisions have upon the fortunes, lives, and fame of so many gallant men, it is impossible not to feel that they ought to have, in their legal advisers, the Judge Advocates, men of learning, talent, and discretion. Such it is always the object of the Department to procure for them, but such cannot always be obtained; and when they are, it is at great expense. They are drawn from other and profitable pursuits, and devote a temporary attention only to the subject. Hence, although much safer aids than less informed and weaker men, they are apt to differ from each other, and the consequence has been, that our Courts Martial proceed by no settled rules; form irregular records; often err for want of light; make decisions utterly destructive of character and of the public interests; and form precedents which serve only to bewilder and perplex those who come after them.

Required, then, to give an "opinion" on a remedy for these evils, the Department would recommend, as one means, the appointment of a responsible officer, a Judge Advocate, whose duty it should be to form, under the direction of the Department, a proper system for the go-

vernment of courts martial; to prepare the cases and witnesses for trial; to attend, when practicable, and always to examine, and report to the Department, on the records, and guard against unlawful proceedings and convictions. Many benefits would thereby be secured; there would be more certainty in our trials; the charges would be legal; the causes being properly prepared, there would be less delay; the rules for the proceedings being settled, there would be less error; records be uniform and accurate; economy be promoted, by shortening the terms of the courts, and avoiding the employment of temporary Judge Advocates; and justice be more surely administered. The same officer, if equal to the station, could perform the duties both for the Army and the Navy, and would produce results in both, which they only can estimate who have reflected seriously on the high importance of a steady, uniform, consistent, and economical administration of criminal law, in military and naval establishments, and the incalculably painful consequences which arise from erroneous decisions.

The recommendation, then, as to this law, has three objects: 1st. To define offences. 2d. To fix and apportion punishments. 3d. To provide safe rules for the trials, and a competent officer to aid in the administration of the criminal code. It is, perhaps, proper to remark, that, in recommending the appointment of one Judge Advocate for the Navy and the Army, the Secretary of War concurs.

Two other amendments ought to be made in the law. 1. That the court be at least so far freed from the obligation of secrecy, as relates to the officer who constituted it, and who has to approve its sentence. A concealment from him, of every thing but what appears upon the record, often compels a decision in ignorance of facts most important to a right judgment upon the case, and naturally leaves the members of the court free from the responsibility which ought to attach to them, and which is the best security for correct decision.

2. Power should be given to the court to enforce the attendance of witnesses, necessary either for the accusation or defence, and to take the depositions of those who could not attend; a power always essential to the safe administration of justice.

There is still another "alteration" which, in my "opinion," ought to be made, and which is even more important than those already mentioned, to promote discipline, efficiency, and economy, and to prevent the recurrence of courts martial in the service: the establishment of an academy, or providing, in some effectual mode, for the instruction of the young officers. These are taken from the poor, who have not the means of a good education, as well as the rich, who have. They enter, from the nature of the duties, at so early an age, that they cannot be accomplished, nor even moderately accurate scholars. They are constantly employed on ship board, or in our navy yards, where much advancement in learning cannot be expected. Their pay will afford them a support, but no means of literary improvement. The consequence necessarily is, and such is well known to be the fact, that very many advance in age and rise in grade much less cultivated and informed than their own reputation and that of the country require. For this evil there is but one remedy, and that is to be found in the wisdom and beneficence of the Government, from which they receive their offices, and to whose honor and interest they are devoted. It is the formation of a school which shall combine literary with professional instruction, a competent portion of common learning with a profound knowledge of every thing connected with military science, seamanship, and navigation—the theory, with the practice of their profession. The considerations which urge respect for this recommendation, are connected with every thing which the nation has to hope from its naval establishment. They may be

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glanced at, but cannot be suitably discussed, in this report. The situation of our country, the nature of its territory and its coasts, the extent of its commerce, the character of its institutions, and its political connexions, all point unerringly to that establishment, as the security for its peace and its honor. It no longer remains a debatable question, whether we shall look to the navy as one of the means by which our interests are to be most cheaply and most securely protected. It has been settled by a course of events which have carried the nation forward to a point where, on this subject, it has scarcely the liberty to choose. It has interests to protect, and duties to discharge, which it cannot, if it would, disregard. The problem now to be solved by it is, in what mode our naval means may be commanded most surely, and with the least possible burthen, combining most efficiency with the smallest expense.

The answer is believed to be plain. By giving to our officers the greatest amount of science and skill, by fitting all to command the vessels we may choose to build, and the seamen we may be enabled to enlist. By these means, and these only, may we, in times of quiet, keep in employment as small a number of vessels as our commerce may absolutely require; and yet, at the moment of trouble, swell it to the full extent which our protection may demand, and the number of our seamen will permit; the latter being the only limit which can be placed to our naval power. It is not, however, in this circumstance alone, that well-instructed officers will induce economy: the better instructed and more intelligent an officer is, the more skillfully and precisely, and, of course, the more economically, will he perform the duties assigned him. Ignorance is always, skill never, prodigal. There is no business, profession, or occupation, in the circle of society, to which this principle applies with more energy, than to our naval establishment. Discipline and efficiency, also, necessarily result from the same cause.

Educated in such a school as it becomes the Government to establish, moral principles are secured, good habits formed, subordination learned, honorable feelings encouraged and confirmed, skill acquired, science and discipline necessarily combined.

The illustration of these truths is before us in another branch of our national defence, to which the favor of the Government has been extended; and the suggestion will be pardoned, that no sound argument can be urged in its favor, which does not receive additional force from the situation in which the Navy is placed, and the interests and hopes which are connected with it.

Our future national conflicts are to rest principally on it, come when they may. It also is the bearer of our honor and our fame, to every foreign shore. The American naval officer is, in fact, the representative of his country in every port to which he goes, and, by him, is that country in a greater or less degree estimated. With a well-regulated national pride, this consideration alone should ensure him ample means of instruction and improvement.

A school, to be useful to the Navy, must combine theory with practice. It must, therefore, be located where the attention may be directed to the construction, equipment, armament, and sailing, of vessels. Governor's Island, in the harbor of New York, seems to be well fitted for all these objects. The buildings and improvements already upon it, with slight alterations and repairs, would probably be sufficient for present accommodation; and, if the public interests would permit its transfer for a time from the War to the Navy Department, and an appropriation were made of \$10,000, for the support of instructors, the school might be put into operation with very little delay, and its permanent location be hereafter determined.

I beg leave to refer to a report from this Department, dated 1st day of January, 1824, expressing an opinion

of the propriety and necessity of augmenting the number of our sloops of war, as a means of increasing the efficiency and economy of the service, and to add, that the experience of the past year has amply confirmed the reasons there presented.

There are other alterations, which are not suggested, as they are supposed to be within the power of the Department. Some have been made within the last year, and others will hereafter receive attention. Among the former, are the General Order which was issued respecting the arrest and trial of officers, and a regulation by which any person, before he can receive an appointment as surgeon's mate, or, being a mate, be promoted to the rank of surgeon, must pass, successfully, a rigid examination before a board of competent surgeons, both as to his moral character and his professional attainments, especially in all that relates to the duties of his particular office. The operation of these rules need not be explained: they have thus far been found most salutary.

The preceding remarks contain the "opinion" called for by the resolution, so far as respects the Navy.

In relation to the Marine Corps, I have the honor to submit various papers, marked 1 and 2, which contain the views presented by the Commandant of the Corps, in reference to its numbers and organization. They furnish satisfactory evidence that an augmentation of it is required, and justice seems to demand that its organization, as to grade and number of officers, should correspond with its size. The same principles are applicable to it as have been urged in reference to the Navy, and which apply to all military establishments. An arrangement will be made with the War Department, by which the officers of this Corps will hereafter be taken from the graduates at West Point.

I have the honor to be, sir, very respectfully, &c.

SAMUEL L. SOUTHARD.

### MESSAGE

*Of the President of the United States, transmitting to Congress a Report of the Secretary of War, in relation to the Various Tribes of Indians within the United States, and recommending a Plan for their future Location and Government: January 27th, 1825.*

*To the House of Representatives of the United States:*

Being deeply impressed with the opinion, that the removal of the Indian tribes from the lands which they now occupy within the limits of the several states and territories, to the country lying westward and northward thereof, within our acknowledged boundaries, is of very high importance to our Union, and may be accomplished, on conditions, and in a manner, to promote the interest and happiness of those tribes, the attention of the Government has been long drawn, with great solicitude, to the object. For the removal of the tribes within the limits of the state of Georgia, the motive has been peculiarly strong, arising from the compact with that state, whereby the United States are bound to extinguish the Indian title to the lands within it, whenever it may be done peaceably and on reasonable conditions. In the fulfilment of this compact, I have thought that the United States should act with a generous spirit, that they should omit nothing which should comport with a liberal construction of the instrument, and likewise be in accordance with the just rights of those tribes. From the view which I have taken of the subject, I am satisfied, that, in the discharge of these important duties, in regard to both the parties alluded to, the United States will have to encounter no conflicting interests with either: on the contrary, that the removal of the tribes from the territory which they now inhabit, to that which was designated in the message at the commencement of the session, which would accomplish the object for Georgia, under a

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well digested plan for their government and civilization, which should be agreeable to themselves, would not only shield them from impending ruin, but promote their welfare and happiness. Experience has clearly demonstrated, that, in their present state, it is impossible to incorporate them in such masses, in any form whatever, into our system. It has also demonstrated, with equal certainty, that, without a timely anticipation of, and provision against, the dangers to which they are exposed, under causes which it will be difficult, if not impossible, to control, their degradation and extermination will be inevitable.

The great object to be accomplished is, the removal of those tribes to the territory designated, on conditions which shall be satisfactory to themselves, and honorable to the United States. This can be done only by conveying to each tribe a good title to an adequate portion of land, to which it may consent to remove, and by providing for it there, a system of internal government, which shall protect their property from invasion, and, by the regular progress of improvement and civilization prevent that degeneracy which has generally marked the transition from the one to the other state.

I transmit, herewith, a report from the Secretary of War, which presents the best estimate which can be formed, from the documents in that Department, of the number of Indians within our States and Territories, and of the amount of lands held by the several tribes within each; of the state of the country lying Northward and Westward thereof, within our acknowledged boundaries; of the parts to which the Indian title has already been extinguished; and of the conditions on which other parts, in an amount, which may be adequate to the object contemplated, may be obtained. By this report, it appears that the Indian title has already been extinguished to extensive tracts in that quarter, and that other portions may be acquired, to the extent desired, on very moderate conditions. Satisfied I also am, that the removal proposed is not only practicable, but that the advantages attending it to the Indians may be made so apparent to them, that all the tribes, even those most opposed, may be induced to accede to it at no very distant day.

The digest of such a Government, with the consent of the Indians, which should be endowed with sufficient power to meet all the objects contemplated; to connect the several tribes together in a bond of amity, and preserve order in each; to prevent intrusions on their property; to teach them, by regular instructions, the arts of civilized life, and make them a civilized people, is an object of very high importance. It is the powerful consideration which we have to offer to these tribes, as an inducement to relinquish the lands on which they now reside, and to remove to those which are designated. It is not doubted that this arrangement will present considerations of sufficient force to surmount all their prejudices in favor of the soil of their nativity, however strong they may be. Their elders have sufficient intelligence to discern the certain progress of events in the present train, and sufficient virtue, by yielding to momentary sacrifices, to protect their families and posterity from inevitable destruction. They will also perceive, that they may thus attain an elevation to which, as communities, they could not otherwise aspire.

To the United States, the proposed arrangement offers many important advantages, in addition to those which have been already enumerated. By the establishment of such a government over these tribes, with their consent, we become in reality their benefactors. The relation of conflicting interests, which has heretofore existed between them and our frontier settlements, will cease. There will be no more wars between them and the United States. Adopting such a government, their movement will be in harmony with us, and its good effect be felt throughout the whole extent of our territory,

to the Pacific. It may fairly be presumed that, through the agency of such a government, the condition of all the tribes inhabiting that vast region may be essentially improved; that permanent peace may be preserved with them, and our commerce be much extended.

With a view to this important object, I recommend it to Congress to adopt, by solemn declaration, certain fundamental principles, in accord with those above suggested, as the basis of such arrangements as may be entered into with the several tribes, to the strict observance of which, the faith of the nation shall be pledged. I recommend it also to Congress to provide by law for the appointment of a suitable number of commissioners, who shall, under the direction of the President, be authorized to visit and explain to the several tribes the objects of the Government, and to make with them, according to their instructions, such arrangements as shall be best calculated to carry those objects into effect.

A negotiation is now depending with the Creek nation, for the cession of lands held by it, within the limits of Georgia, and with a reasonable prospect of success. It is presumed, however, that the result will not be known during the present session of Congress. To give effect to this negotiation, and to the negotiations which it is proposed to hold with all the other tribes within the limits of the several states and territories, on the principles and for the purposes stated, it is recommended that an adequate appropriation be now made by Congress.

JAMES MONROE.

*Washington, 27th January, 1825.**Department of War, 24th Jan. 1825.*

In obedience to your instructions, directing a statement of the names of the Indian tribes now remaining within the limits of the different states and territories, the number of each tribe, and the quantity of land claimed by each; also, an estimate of the amount of appropriation necessary to commence the work of moving the Indians beyond the Mississippi, to be laid before you, I herewith enclose a report from Col. M'Kenney, to whom is assigned the charge of the office of Indian Affairs, which contains all of the information required, except the estimate of the sum that will be necessary to be appropriated to commence the removal.

In forming the estimate required, it will be necessary to take a summary view of the number and position of the several tribes to be removed, and to form a plan in detail for their removal.

It appears, by the report enclosed, that there are, in the several states and territories, not including the portion of Michigan territory West of Lake Michigan, and North of the state of Illinois, about 97,000 Indians, and that they occupy about 77,000,000 of acres of land.

The arrangement for the removal, it is presumed, is not intended to comprehend the small remnants of tribes in Maine, Massachusetts, Connecticut, Rhode Island, Virginia, and South Carolina, amounting to 3,023. To these also may be added the remnants of tribes remaining in Louisiana, amounting to 1,313, as they are each of them so few in number that, it is believed, very little expense or difficulty will be found in their removal, making together 4,336, which, subtracted from the 97,000, the entire number in the states and territories, will leave 92,664 to be removed. Of these, there are residing in the northern parts of the states of Indiana, Illinois, in the peninsula of Michigan, and New York, including the Ottawas in Ohio, about 13,150; which, I would respectfully suggest, might be removed, with advantage to the country West of Lake Michigan, and North of the state of Illinois. The climate and the nature of the country are much more favorable to their habits, than that West of the Mississippi; to which may be added, that the Indians in New York have already commenced a settlement at Green Bay, and exhibit some disposition to

make it a permanent one; and that the Indians referred to in Indiana, Illinois, in the peninsula of Michigan, and Ohio, will find in the country designated, kindred tribes, with whom they may be readily associated. These considerations, with the greater facility with which they could be collected in that portion of the country, compared with that of collecting them west of the Mississippi, form a strong inducement to give it the preference. Should the proposition be adopted, the Indians in question might be gradually collected, as it became necessary, from time to time, to extinguish the Indian title in Indiana, Illinois, and Michigan, without incurring any additional expense, other than what is usually incidental to such extinguishment. Deducting, then, the Indians residing in the Northwestern parts of Indiana, Illinois, in Michigan, and New York, with the Ottawas in Ohio, amounting to 13,150, from 92,664, will leave but 79,514. It is proper to add, that a late treaty with the Quapaws stipulates, and provides, for their removal, and that they may also be deducted from the number, for whose removal provision ought to be made. They are estimated at 700, which, deducted from 79,514, will leave 78,814 to be removed west of the state of Missouri and territory of Arkansas, should the views of the Department be adopted.

Of these, there are estimated to reside in the states of North Carolina, Georgia, Tennessee, Alabama, and Mississippi, 53,625, consisting of Cherokees, Creeks, Choctaws, and Chickasaws; and claiming about 33,573,176 acres, including the claim of the Cherokees, in North Carolina; 3,082 in Ohio, and in the Southern and middle parts of Indiana and Illinois, consisting of Wyandotts, Shawnees, Senecas, Delawares, Kaskaskias, and Miami, and Eel rivers; 5,000 in Florida, consisting of Seminoles and remnants of other tribes; and the remainder in Missouri and Arkansas, consisting of Delawares, Kickapoos, Shawnees, Weas, Ioways, Piankeshaws, Cherokees, Quapaws, and Osages.

The next subject of consideration will be, to acquire a sufficient tract of country West of the state of Missouri and territory of Arkansas, in order to establish permanent settlements, in that quarter, of the tribes which are proposed to be removed. The country between the Red River and the Arkansas, has already been allotted to the Choctaws, under the treaty of the 18th October, 1820. The country north of the river Arkansas, and immediately west of the state of Missouri, is held almost entirely by the Osages and the Kansas. The principal settlement of the former being on the Osage river, not far West of the Western boundary of Missouri; and of the latter, on the Missouri river, near Cow Island. There is a band of the Osages situated on the Verdigris, a branch of the Arkansas. Governor Clark has been already instructed to take measures to remove them from the Verdigris, to join the other bands on the Osage river. To carry this object into effect, and to extinguish the title of the Osages upon the Arkansas, and in the state of Missouri; and also to extinguish the title of the Kansas to whatever tract of country may be necessary to effect the views of the Government, will be the first object of expenditure; and would require an appropriation, it is believed, of not less than 30,000 dollars. After this is effected, the next will be, to allot a portion of the country to each of the tribes, and to commence the work of removal. The former would be effected, by vesting in the President discretionary power to make the location; and the latter, by commencing with the removal of the Cherokees, Piankeshaws, Weas, Shawnees, Kickapoos, and Delawares, who now occupy different tracts of country, lying in the Northwestern portion of the Arkansas territory, and the Southwestern portion of the state of Missouri. It is believed that the Cherokees, to whom has been allotted a country lying between the Arkansas and White rivers, will very readily agree to removing their Eastern boundary further West, on the consideration,

that, for the lands thereby ceded, they may have assigned to them an equal quantity further West, as they have evinced a strong disposition to prevent the settlement of the whites to the West of them. It is probable, that this arrangement could be effected by an appropriation of a few thousand dollars, say five thousand, for the expense of holding the treaty. Nor is it believed that there will be any difficulty in inducing the Piankeshaws, Weas, Shawnees, Kickapoos, and Delawares, to occupy a position, that may be assigned to them West of the state of Missouri; or that the operation will be attended with any great expense. The kindred tribes, in the states of Ohio and Indiana, including the Wyandotts, the Senecas, and the Miamies and Eel rivers, in those states; and the Kaskaskias, in Illinois, it is believed, might be induced, without much difficulty, to join them, after those now residing in Missouri are fixed in their new position, West of that state. Of the sum that will be necessary for this purpose, it is difficult to form an estimate. These tribes amount to 3,082. The expense of extinguishing their title to the lands occupied by them, will probably be high, in comparison with the price which has been usually given for lands in that quarter, as they, particularly the Indians in Ohio, have made some advances in civilization, and considerable improvements on their lands. The better course would be, to remove them gradually, commencing with those tribes which are most disposed to leave their present settlements, and, if this arrangement should be adopted, an appropriation of 20,000 dollars would be sufficient to commence with.

It may, however, be proper to remark, that these tribes, together with those in New York, have indicated a disposition to join the Cherokees on the Arkansas, and that a deputation of the former, with a deputation from those Cherokees, are now on their way to the seat of Government, in order to make some arrangements to carry the proposed union into effect. Should it be accomplished, it would vary the arrangement which has been suggested in relation to them, but will not, probably, materially vary the expense.

It only remains now to consider the removal of the Indians in Florida, and the four southern tribes residing in North Carolina, Georgia, Tennessee, Alabama, and Mississippi.

It is believed that immediate measures need not be taken with regard to the Indians in Florida. By the Treaty of the 18th September, 1823, they ceded the whole of the Northern portion of Florida, with the exception of a few small reservations, and have had allotted to them the southern part of the peninsula; and it is probable that no inconvenience will be felt for many years, either by the inhabitants of Florida, or the Indians, under the present arrangement.

Of the four southern tribes, two of them, the Cherokees and Choctaws, have already allotted to them a tract of country west of the Mississippi. That which has been allotted to the latter, is believed to be sufficiently ample for the whole nation, should they emigrate, and if an arrangement, which is believed not to be impracticable, could be made between them and the Chickasaws, who are their neighbors, and of similar habits and dispositions, it would be sufficient for the accommodation of both. A sufficient country should be reserved to the west of the Cherokees on the Arkansas, as a means of exchange with those who remain on the east. To the Creeks might be allotted a country between the Arkansas and Canadian river, which limits the northern boundary of the Choctaw possessions in that quarter. There is now pending with the Creeks a negotiation, under the appropriation of the last session, with a prospect, that a portion of that nation which resides within the limits of Georgia, may be induced, with the consent of the nation, to cede the country which they occupy for a portion of the one which it is proposed to allot for the

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Creek nation on the west of the Mississippi. Should the treaty prove successful, its stipulations will provide for the means of carrying it into effect, which will render any additional provision at present, unnecessary. It will be proper to open new communications with the Cherokees, Choctaws, and Chickasaws, for the purpose of explaining to them the views of the Government, and inducing them to remove beyond the Mississippi, on the principles and conditions which may be proposed to the other tribes. It is known, that there are many individuals of each of the tribes, who are desirous of settling west of the Mississippi, and should it be thought advisable, there can be no doubt, that if, by an adequate appropriation, the means were afforded the Government of bearing their expense, they would emigrate. Should it be thought, that the encouragement of such emigration is desirable, the sum of 40,000 dollars, at least, would be required to be appropriated for this object, to be applied under the discretion of the President of the United States. The several sums which have been recommended to be appropriated, if the proposed arrangements should be adopted, amount to 95,000 dollars. The appropriation may be made either general or specific, as may be considered most advisable.

I cannot, however conclude, without remarking, that no arrangement ought to be made which does not regard the interest of the Indians, as well as our own, and that to protect the interest of the former, decisive measures ought to be adopted to prevent the hostility, which must almost necessarily take place if left to themselves, among tribes hastily brought together, of discordant character; and many of which are actuated by feelings far from friendly towards each other. But the preservation of peace between them will not alone be sufficient to render their condition as eligible in their new situation, as it is in their present. Almost all of the tribes proposed to be effected by the arrangement, are more or less advanced in the arts of civilized life, and there is scarcely one of them, which have not the establishment of schools in the nation, affording at once the means of moral, religious, and intellectual improvement. These schools have been established for the most part by religious societies, with the countenance and aid of the Government, and on every principle of humanity the continuance of similar advantages of education ought to be extended to them in their new residence. There is another point which appears to be indispensable to be guarded, in order to render the condition of this race less afflictive. One of the greatest evils to which they are subject, is that incessant pressure of our population, which forces them from seat to seat, without allowing time for that moral and intellectual improvement, for which they appear to be naturally eminently susceptible. To guard against this evil, so fatal to the race, there ought to be the strongest and the most solemn assurance, that the country given them should be theirs, as a permanent home for themselves and their posterity, without being disturbed by the encroachments of our citizens. To such assurance, if there should be added a system by which the government, without destroying their independence, would gradually unite the several tribes under a simple, but enlightened system of government and laws, formed on the principles of our own, and to which, as their own people would partake in it, they would, under the influence of the contemplated improvement, at no distant day, become prepared, the arrangements which have been proposed would prove to the Indians and their posterity a permanent blessing. It is believed that, if they could be assured that peace and friendship would be maintained among the several tribes: that the advantages of education which they now enjoy would be extended to them; that they should have a permanent and solemn guarantee for their possessions, and receive the countenance and aid of the government for the gradual extension of its privileges to

them, there would be among all the tribes a disposition to accord with the views of the government. There are now in most of the tribes, well educated, sober, and reflecting individuals, who are afflicted at the present condition of the Indians, and despondent at their future prospects. Under the operation of existing causes, they behold the certain degradation, misery, and even the final annihilation of their race, and no doubt would gladly embrace any arrangement which would promise to elevate them in the scale of civilization, and arrest the destruction which now awaits them. It is conceived that one of the most cheap, certain, and desirable modes of effecting the object in view, would be, for Congress to establish fixed principles, such as have been suggested as the basis of the proposed arrangement, and to authorize the President to convene, at some suitable point, all of the well informed, intelligent, and influential individuals of the tribes to be affected by it, in order to explain to them the views of the government, and to pledge the faith of the nation to the arrangements that might be adopted. Should such principles be established by Congress, and the President be vested with suitable authority to convene the individuals as proposed, and suitable provision be made to meet the expense, great confidence is felt, that a basis of a system might be laid, which, in a few years, would entirely effect the object in view, to the mutual benefit of the government and the Indians, and which, in its operations, would effectually arrest the calamitous course of events to which they must be subject without a radical change in the present system. Should it be thought advisable to call such a convention, as one of the means of effecting the object in view, an additional appropriation of 30,000 dollars will be required; making in the whole, 125,000 dollars to be appropriated.

All of which is respectfully submitted.

J. C. CALHOUN.

To the PRESIDENT of the United States.

DEPARTMENT OF WAR,  
Office of Indian Affairs, Jan. 10, 1825.

SIR: I have the honor, herewith, to submit, in compliance with your directions, a table containing a statement of the names of the Indian tribes now remaining within the limits of the different states and territories; the number of each tribe: and the quantity of land claimed by each.

There is no land assigned, as will be seen on reference to the table, to the Indians in Louisiana; yet, it is believed, the Caddoes have a claim, but to what extent is not known. So, also, have the Cherokees, (whose numbers are not known,) to a tract in the northwest corner of the state of North Carolina; which, it is believed, does not exceed 200,000 acres. In New Jersey, Pennsylvania, and perhaps in Maryland, a few Indians are remaining, but how many, or what quantity of land is owned by them, if any, there are no means of ascertaining.

There are now remaining within the limits of the different states and territories, as is shewn by the table, sixty-four tribes and remnants of tribes of Indians, whose "names" and "numbers" are given; who number, in the aggregate, 129,266 souls; and who claim 77,402,318 acres of land.

It will be seen by adverting to the table, that the Indians residing north of the state of Illinois, east of the Mississippi, and west of the Lakes, are comprehended in the estimate of the number in Michigan Territory; although, in estimating the quantity of land held by Indians in that territory, the portion, only, so held in the peninsula of Michigan, is estimated. It was found impossible, from any documents in possession of this office, to distinguish the number of Chippewas and Ottawas residing in the peninsula of Michigan from those residing on the west side of Lake Michigan. It is, however



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believed, that the whole number residing in the peninsula, does not exceed 3,500; and these, as has been stated, are principally of the Chippewa and Ottawa tribes.

It may be proper also to remark, that of the 6,400 Sacks and Foxes who are included in the estimate as part of the 129,266; and who occupy lands on both sides of the Mississippi, not more than one-third of that number are supposed to reside on the east side; and of the 5,200 Osages, who, by the table, are assigned to Missouri and Arkansas, it is believed, not more than one-third of that number reside within the state of Missouri and territory of Arkansas. If, therefore, the number assumed for the peninsula of Michigan, be correct, and two-thirds of the Sacs and Foxes, as is believed to be the fact, reside on the west of the Mississippi; and two-thirds of the Osages west of Missouri, and north of Arkansas, there will remain "within the limits of the different states and territories,"—confining the Michigan territory to the peninsula—97,384 Indians, possessing, (if the 200,000 acres which are believed to be claimed by the Cherokees in North Carolina, be added,) 77,602,318 acres of land.

In obtaining this information, resort has been had, for the "names" and "numbers" of the Indian tribes, to the reports to this office, and to other sources of information which are deemed to be the most accurate; and, for the quantity of land claimed by them, to the files of this office; to the General Land Office; and to compu-

tations carefully made from the best maps, by Colonel Roberdeau, of the Topographical Bureau.

The 4,000,000 of acres assumed as the quantity claimed by the Cherokees in Arkansas, although but an estimate, is believed to be nearly correct. The precise quantity, however, cannot be ascertained, until it is known how much they ceded on this side the Mississippi, for which, by the treaty of 1817, they are to receive an equal number of acres on the other.

I have the honor to accompany this with a note from Col. Roberdeau, in relation to the difference between his estimate of last year, of the lands claimed in Georgia, and his recent corrected computation of them.

I have the honor to be, very respectfully,  
Your most obedient servant,  
THO'S L. McKENNY.

To the Hon. the Secretary of War.

TOPOGRAPHICAL BUREAU, Jan. 10, 1825.

The quantity of land in the state of Georgia, not ceded to the United States by Indians, was, last year, reported to 10,240,000 square acres; upon a review of the calculations, and having more correct documents than were then referred to, the whole quantity in the state appears to be 9,537,920 acres, of which 5,292,160 are of the Cherokees, and 4,245,760 of the Creeks, as nearly as can be computed.

I. ROBERDEAU, Lt. Col. Top. Engineers.  
Col. Tho's L. McKENNY, Indian Department.

**STATEMENT, showing the Names and Numbers of the different Tribes of Indians now remaining within the limits of the several States and Territories, and the quantity of Land claimed by them respectively.**

Names of the Tribes.	States or Territories in which located.	Numbers of each Tribe.	Number in each state or territory.	Number of acres claimed by each tribe.	REMARKS.
St. John's Indians,	Maine, - - -	300	-	-	No information as to their lands.
Passamaquoddies,	do - - -	379	-	100	
Penobscots,	do - - -	277	-	92,160	
			956		
Marshpee,	Massachusetts,	320	-	-	All the Indians in this state reside on their respective reservations, at the places by which they are designated. The quantity of land occupied by them is not known, nor is there any information in this office by which it can be ascertained.
Herring Pond,	do - - -	46	-	-	
Martha's Vineyard,	do - - -	340	-	-	
Troy,	do - - -	50	-	-	
			750		
Narragansett,	Rhode Island,	-	420	3,000	No information as to their lands.
Mohegan,	Connecticut,	300	-	4,000	
Stonington,	do - - -	50	-	300	
Groton,	do - - -	50	-	-	
			400		
Senecas,	New York,	2,325	-	-	These Indians own, and possess together, sixteen reservations of land, containing in the whole, according to the report of the agent, on file in this office, about the number of acres stated.
Tuscaroras,	do - - -	253	-	-	
Oneidas,	do - - -	1,096	-	-	
Onondagas,	do - - -	446	-	-	
Cayugas,	do - - -	90	-	-	
Stockbridge,	do - - -	273	-	-	
Brotherton,	do - - -	360	-	-	
St. Regis Indians,	do - - -	300	-	-	
			5,143		
Nottaways,	Virginia,	-	47	27,000	
Catawbias,	South Carolina,	-	450	144,000	

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Names of the Tribes.	States and Territories in which located.	Numbers of each Tribe.	Number in each state or territory.	Number of acres claimed by each Tribe.	REMARKS.
Wyandotts, - - -	Ohio, - - -	542	-	163,000	The quantity of land claimed by these tribes is contained in several reservations, secured to them respectively, by treaty. Besides these there are a number of other reservations, secured separately, to individual Indians, containing together, 16,200 acres; making the whole quantity claimed in this state, 409,501 acres, according to information obtained from the General Land Office.
Shawnees, - - -	do - - -	800	-	117,615	
Senecas, - - -	do - - -	551	-	55,505	
Delawares, - - -	do - - -	80	-	5,760	
Ottawas, - - -	do - - -	377	-	50,581	
			2,350		
Wyandotts, - - -	Michigan Territory, - - -	37	-	7,057,920	These tribes reside, in some degree, promiscuously, and the number stated comprehends all those inhabiting the country north of Illinois, and between Lake Michigan and Mississippi rivers, as well as those residing in the peninsula formed by Lakes Erie and Michigan, and the northern boundary of Indiana. The quantity of land mentioned is that claimed by the Indians in the peninsula only; but in what proportion by the respective tribes, cannot be ascertained.
Pottawatamies, - - -	do - - -	106	-		
Chippewas and Ottawas, the former by far the most numerous, - - -	do - - -	18,473	-		
Menomeenees, - - -	do - - -	3,900	-		
Winnebagoes, - - -	do - - -	5,800	-		
			28,316		
Miami, and Eel River Indians, - - -	Indiana, - - -	-	1,073	10,104,000	A part of these lands is claimed by the Pottawatamies and Chippewas, (who reside partly in this state and in Illinois,) but in what proportion there are no means of ascertaining.
Menomeenees, - - -	Illinois, - - -	270	-	5,314,560	This is the whole quantity of land claimed by Indians in this state, including the Pottawatamies and Chippewas, but there are no means of distinguishing the quantity owned by each tribe. The number of Sauks and Foxes, embraces those on both sides of the Mississippi; there being no means of ascertaining the particular number of them in Illinois.
Kaskaskias, - - -	do - - -	36	-		
Sauks and Foxes, - - -	do - - -	6,400	-		
			6,706		
Potawattamies and Chippewas, - - -	Indiana and Illinois, - - -	-	3,900	-	Claim lands in both states; quantity claimed by them separately from other tribes, not known.
Creeks, - - -	Georgia & Alabama, - - -	20,000	-	33,571,176	The quantity of land here stated is the whole quantity claimed by all these tribes within the states mentioned; of which
Cherokees, - - -	Georgia, Alabama, and Tennessee, - - -	9,000	-		The Creeks claim in Georgia, 4,245,760
Choctaws, - - -	Mississippi and Alabama, - - -	21,000	-		The Cherokees in do. 5,292,160
Chickasaws, - - -	Mississippi, - - -	3,625	-		9,537,920
					The Creeks and Cherokees, in Alabama, - 5,995,200
					The Choctaws, do. 781,440
					The Chickasaws, do. 495,536
					7,272,576
					The Cherokees, in Tennessee, 1,055,680
					The Choctaws and Chickasaws, in Mississippi, 15,705,000

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Names of the Tribes.	States or Territories in which located.	Numbers of each Tribe.	Number in each state or territory.	Number of acres claimed by each Tribe.	REMARKS.
Seminoles, and other remnants of tribes, }	Florida Territory,	-	5,000	4,032,640	Quantity of land computed from the survey made by Colonel Gadsden.
Billoxie, - - - Apolache, - - - Pascagoula, - - - Addees, - - - Yaltasse, - - - Coshatt'es, - - - Caddow, - - - Delawares, - - - Choctaws, - - - Shawnees, - - - Nachitoches, - - - Quapaws, - - - Piankeshaws, - - -	Louisiana, - - - do - - - do - - - do - - - do - - - do - - - do - - - do - - - do - - - do - - - do - - - do - - -	55 45 111 27 36 180 450 51 178 110 25 8 27	-	-	
			1,313		These Indians are all hunters, and reside principally in Red River, in this state. There is no information as to the lands claimed by them. Their numbers are taken from the report of the agent, on file in this office.
Delawares, - - -	Missouri, - - -	1,800	-	21,120	Hold the lands they occupy under the treaty with them, of 3d Oct. 1818.
Kickapoos, - - -	do - - -	2,200	-	9,600	
Shawnees, - - -	do - - -	1,383	-	14,086	Hold their lands under treaties of 30th July, & 30th Aug. 1819.
Weas, - - -	do - - -	327	-	-	These Indians emigrated, a few years ago, from the East of the Mississippi to their present residence in this state.
Howays, - - -	do - - -	1,100	-	-	Under the treaties of 1818 and 1820, the Weas sold out all their claim to lands in Indiana, Ohio, and Illinois, and emigrated to this state. There is no information as to the lands now owned or occupied by them.
Osages, - - -	Missouri and Arkansas Territory, -	5,200	-	3,491,840	No information as to the lands claimed by these Indians.
Piankeshaws, - - -	do - - -	207	-	-	The Osages reside partly in Missouri and in Arkansas, and the greater portion west of both. Of the lands stated as claimed by them, 2,737,920 acres are in the former, and 753,920 acres in the latter.
Cherokees, - - -	Arkansas Territory,	6,000	-	4,000,000	No information as to their lands.
Quapaws, - - -	do - - -	700	-	-	The Cherokees claim about this quantity of land in this territory, under treaties of 1817 and 1819; the precise quantity not yet ascertained.
Choctaws, - - -	do - - -	-	18,917	8,858,560	These Indians have recently sold out all their claim, and are about to remove beyond the limits of the territory.
					Very few or none of this tribe reside in the territory; but they claim in it the quantity of land stated under the treaty of 18th October, 1820.

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2d Session. }

## RECAPITULATION.

STATES AND TERRITORIES.	Whole number of Indians.	Whole quantity of land claimed.		REMARKS.	
		ACRES.			
Maine, - - -	956	92,260		{ The number of Indians embraces those in the country West of Lake Michigan, as well as those in the peninsula of Michigan; the information being such as not to admit of a separate enumeration.	
Massachusetts, - - -	750				
Rhode Island, - - -	420	3,000			
Connecticut, - - -	400	4,300			
New York, - - -	5,143	246,675			
Virginia, - - -	47	27,000			
South Carolina, - - -	450	144,000			
Ohio, - - -	2,350	409,501			
Michigan Territory, -	28,316	7,057,920			{ Some of the Indians claiming lands in these states reside partly in both; the particular number in either cannot therefore be stated.
Indiana, - - -	11,579	10,104,000	{	{ The Indians claiming lands in these states, do not all reside in any one of them, except the Chickasaws; and it cannot therefore be stated what is the particular number residing in each state.	
Illinois, - - -		5,314,560			
Georgia, - - -	53,625	9,537,920	{		
Alabama, - - -		7,272,576			
Tennessee, - - -		1,055,680			
Mississippi, - - -		15,705,000			
Florida Territory, - -	5,000	4,032,640			
Louisiana, - - -	1,313				
Missouri, - - -	18,917	2,782,726	{		
Arkansas Territory, -		13,612,560			
	129,266	77,402,318			

DEPARTMENT OF WAR, Office Indian Affairs, Jan. 10, 1825.

THOS. L. M'KENNEY.

## MEMORIAL

*Of the Members of the Bar of Nashville, in the State of Tennessee.—Jan. 4, 1825.*

*To the Honorable the Senate and House of Representatives of the United States of America, in Congress assembled.*

The members of the Bar of Nashville, in the state of Tennessee, beg leave, respectfully, to submit to your honorable body, a brief statement, showing the evils experienced by the Western States, in consequence of the defective organization of the Federal Judiciary System.

In the nine Western States, there is only one Circuit Judge; and, of course, only one member of the Supreme Court of the United States. Seven of those states are, at this time, entirely excluded from all the benefits to be derived from the presence and learning of a Judge of the Supreme Court. If this be a privation, followed by serious injuries to the states in that situation, it is time that a remedy should be applied by the National Legislature, or its application be clearly shown to be impracticable.

When the extensive grant of judicial power was made by the Constitution, to the Federal Government, it became the duty of that Government to provide for the exercise of those powers in a mode equal in its operations, and by courts fully competent, by their ability, learning, and knowledge of the laws which they were to administer. At present, there exists a great inequality

in the exercise of this power—in states where there is comparatively, little or no business, a Judge of the Supreme Court is associated in the administration of justice with the District Judge. The questions presented are decided by a court which, almost, ensures correctness and satisfaction; or, if the question is difficult, and worthy of a more solemn examination, by a division of opinion in the court it may be brought before the Supreme Tribunal, when the amount in controversy, or the situation of the litigants, would not otherwise allow this to be done. In other states, where the dockets are crowded with business, where property, to an immense amount, is in dispute, and where questions of the greatest moment, to the parties and the community, are to be decided, the courts are, sometimes, as we have been informed, composed only of a District Judge, of inferior talents, whose judgment, no matter how palpably erroneous, if the amount is under two thousand dollars, is irreversible, beyond examination, and carries with it disaster and utter ruin to the suitor; and if the amount is such as allows of a writ of error, it is too often impossible for the injured party, either from poverty or want of friends, to purchase the expensive and distant remedy. But, if it should be a criminal prosecution, by an error in which the character, or liberty, or property, or life of the citizen is to be affected, then he must bow in submission to the erroneous judgment of a single Judge. And if, instead of imbecility, the District Judge is endowed with great talents and learning, yet, there can be no division of opinion, which is of such infinite import-

ance in criminal causes, and in those where no writ of error is allowed; and, in the decisions of all questions, there is not so great a probability of correctness as if he was assisted by another Judge of equal or superior ability.

If this state of things does not constitute a great inequality, and even injustice, in the mode of exercising and distributing the judicial powers of the Union, it is hardly possible to suppose any case which would constitute this degree of inequality and injustice.

Great and ruinous as are the evils which arise from this source, they are not so alarming in principle, or so injurious in practice, as those which spring from the incompetency of the present Supreme Court to execute the judicial powers confided to the General Government, in the mode which the spirit of the Constitution prescribes, and which the safety and welfare of the citizens of the several states of the Union demand. This grant of judicial power was to be exercised over two great, but entirely distinct, departments—the one regarding the administration of the Constitution and laws of the United States; the other, which is, at least, of equal importance, regarded the administration of the laws of the several states. When this transfer of power was made, it was not intended, by the states, that any change should, thereby, be effected in their laws; but, it was expected that those laws, whether common or statute, should be administered in their spirit and purity; and, upon receiving this power, it became the imperative duty of Congress to organize the Courts of the United States in such a manner, and upon such principles, as would ensure a just, and enlightened, and substantial discharge of a trust, so extensive and important. That such is the duty of the United States none will deny. What is then necessary to its performance, and what defects in this organization will constitute such a dereliction of this duty, as to form a just and rational ground of complaint? The object to be attained is the impartial administration of justice, according to the state laws. To effect this, it is not only necessary that the Judiciary Tribunal be honest and enlightened, but, that it have, also, an intimate and accurate acquaintance with the common law of the state; by which we mean the common law of England, or, the *Civil law*, as modified by the habits of the people, and the situation of the country; the statute laws of the states, with their history, causes, construction, and application, and the judicial decisions of the state courts; all of which constitute the laws which the courts of the Union are to observe as their rule of decision; and, upon the understanding and observation of which, depend the rights and welfare of the citizens, and the security of their property.

Are the Courts of the United States so constituted, as to ensure, to a reasonable extent, the proper and safe exercise of this great trust and power? The negative answer to this question, is most obviously and most deplorably true. What Judge on the bench of the Supreme Court has an accurate knowledge of the laws of Missouri, Alabama, Mississippi, Louisiana, Illinois, or Tennessee? Not one—it is quite impossible that any one of them should have, situated as at present they are. We know, we every day feel and we do most deeply regret, their entire ignorance of the laws of Tennessee; and this we say, not in derogation of that very able and enlightened Court, for which we feel the highest respect, but, to show the imperfections of the present system, and attribute them to their proper cause. It is impossible that each of the Judges can acquire such a minute acquaintance with the laws of every one of the twenty-four distinct, sovereign states, all differing in their codes, so as to be competent to determine, with ability and satisfaction, the causes dependent on those codes. To acquire an adequate knowledge of the state laws, the Judge must devote much of his time to their study; he must be acquainted with the country and its citizens;

he must know the situation of their land titles; he must hear their legal principles and their peculiar systems of jurisprudence examined and discussed by the resident lawyers, by men to whom those principles and systems are familiar, who can correct any erroneous opinions which may exist in regard to any part of them. His mind must be imbued from the fountain head. This can only be done by the Judge holding the courts in the several states, and applying his mind, exclusively, to acquiring a knowledge of the laws of the two or three states, in the courts of which he may preside. A man of vigorous mind, thus situated, and thus employed, will carry into the Supreme Tribunal of the Nation a competent knowledge of the laws which are to govern their examination and decisions; and if the appeal is to correct an error committed by himself, he bears with him the light which will enable his associates to detect such error, and rectify what was, probably, a mistake occasioned by the hurry of trial, which will sometimes occur to the ablest men.

The peculiarity of the local laws of some of the Western states, particularly of Kentucky and Tennessee, in relation to their land titles, renders it necessary that there should be two, or more, Judges in the Supreme Court of the United States, from the Western country. These systems of law are not the same in Kentucky as in Tennessee, though between them there is some resemblance; but, in many parts of these systems, no analogy exists to the doctrines of the common law; and a Judge may be an excellent lawyer, endowed with the most exalted talents, and yet not competent to decide or even comprehend, many questions arising in landed controversies from these states. Able counsel may be employed to argue these causes, who are, themselves, perfectly conversant with their local laws, yet, it is impracticable, in an argument of counsel, to lay down all the first rudiments and principles, and to inform, sufficiently, the minds of Judges who are strangers to a system of laws, which is, in reality, complicated, and which, to them, would appear technical and inconsistent. No one will deny, that uniformity of decision in the Supreme Federal and State Tribunals, upon questions involving titles to land, is of the greatest importance; and how great would be the *confusion* and *distress* that would ensue from a difference of opinion and decision between those tribunals, upon questions of that nature.

Your memorialists respectfully represent, that, although by the act of 1807, the Circuit Court system was extended to Tennessee, yet, in fact and in practice, for much of the time, during the interval, from that period to the present, the Circuit Courts have not been attended by a Judge of the Supreme Court of the United States. The seventh circuit, consisting of Kentucky, Ohio, and Tennessee, is too large for the duties of it to be devolved on one man; and it was absolutely impossible for the Judge, assigned to this circuit, to fulfil the letter of the law, designating his duties. The law required the Court to be held once a year in the district of West Tennessee, and the Judge of the Supreme Court, since 1807, has attended but ten courts for said district, little more than one half the number; and, from the situation of the District Judge, in relationship to the parties, his interest in the event of the questions depending, and other causes, great delay and increase of expense have been the consequence; and no power has existed to leave many questions of importance and difficulty revised in the Supreme Court, where the amount in controversy was under two thousand dollars. An additional cause of complaint, in Tennessee, now exists; that, at the last session of Congress, the time of holding the Circuit Court of the United States for the district of Ohio, was made the same as that of its session in Nashville. How this happened, we are unable to say—probably from mistake; it will not, we hope, be imputed to a wish, on the part of the members of Congress from



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Tennessee, to dispense, altogether, with the Circuit Court. This was far from their intention. If the present state of things remains, either Ohio or this state will be deprived of the benefit of the attendance of a Judge of the Supreme Court. But, arranged as the Courts were before the last Congress, the Judge of the Seventh Circuit never had it in his power to remain at Nashville during a whole session. He has always been necessarily called off before the end of the term, to hold court at some other place; which circumstance, alone, has been productive of great inconvenience and delay. The Circuit Court, for this district, commonly sits from six to eight weeks; and it is believed, that no possible arrangement of the sessions of the court, under the present system, can prevent an interference, so as not, necessarily, to deprive one or more circuits of the benefits of a Judge of the Supreme Court.

To show to your honorable body the situation of the business in the Circuit Court for the district of West Tennessee, the following statement is submitted with regard to the number of suits depending therein: On the trial docket of said court, in 1819, there were one hundred and seventy suits; in 1820, there were one hundred and fifty-two; in 1821, there were two hundred and two; in 1822, there were one hundred and forty-eight; in 1823, one hundred and eighty-five; and in 1824, one hundred and sixty-one. The most of these suits were of importance, either as to amount or in principle. Many of them involve difficult questions in law or equity, upon the decision of which, depend large and valuable tracts of land, and, sometimes, the whole estates of individuals. The above number of suits is not the annual product of each year—they have been accumulating from time to time—have been sometimes continued for the want of a competent court, at others because they were not reached, until some of them are older than the professional career of almost every man at this bar. The delay of justice is almost equivalent to its denial; and when the extent of this district, and the distance from which witnesses are summoned, are taken into view, it will be seen that the expense of protracted litigation must be ruinous. No method occurs to us, that will have a tendency to prevent the highly injurious and fatal consequences which we have endeavored to point out, but a change or reformation in the judiciary system, or in the number of Judges; and to attain this end, we have made this appeal to the National Legislature.

Upon the most mature consideration that we have been able to give to the subject, we think the most acceptable plan would be, to form new additional circuits in the Western country, and to appoint three Circuit Judges, who shall likewise be Associate Justices of the Supreme Court of the United States.

Your memorialists cannot perceive the force of the objection which has been urged against this plan, that ten will be too great a number of Judges for the Supreme Court of the United States. In England, no practical inconvenience is found from having twelve, or, in truth, including the Lord Chancellor, thirteen Judges for the decision of cases in a court of last resort; and we confidently refer to the results of experience in that country. No good reason can be given why ten Judges cannot transact business with equal ease, celerity, and ability, as seven; and should it so happen that, upon questions of great importance, an equal division of opinions should exist, in all probability, it would be better for the community that such question should remain undecided, and that the cause be decided by an affirmation of the judgment of the court below. It may also be said, that the court, as at present constituted, cannot transact the business on the docket of the Supreme Court, and that increasing the number of Judges will not obviate, but rather add to, this difficulty. Why is not the business now transacted? Because the Judges are compelled to

attend their circuits, in the different states, which are held, we believe, twice a year in every state and district in the Union, except in Tennessee. In that state, owing to its division into two districts, wholly unconnected with each other, so far as relates to the Federal Court, as much as if they were in different states, there is but one Circuit Court held in a year, for the transaction of business. In the Circuit Courts of the United States, held in almost every state of the Union, perhaps in all but three or four, the business on the dockets can be, and is, completed in four or five days. Were the Circuit Courts held in each state or district but once a year, this would enable the Judges of the Supreme Court to hold their sessions for a much longer period of time, and complete the business before them. The inconvenience of having but one Circuit Court in a year, would be much less than that arising from the great delay, which now exists, in the disposition of the causes in the Supreme Court. The practical effect of the present system, both as to the Supreme and Circuit Courts, is, that the causes of the least importance, and where the amount in controversy is small, are now immediately disposed of, and, others are delayed, from year to year, without argument or decision.

We respectfully submit these our sentiments and views, hoping that they will be received by you in that spirit which ought to characterise an American Congress; and we trust that your enlightened body will remove the numerous inconveniences and great evils which Tennessee, in common with the other Western states, now suffers, from the organization of the present judicial system of the United States.

G. W. CAMPBELL, *Chairman.*

FELIX GRUNDY, *Secretary.*

### MESSAGE

*From the President of the United States, transmitting a copy of the Convention between the United States and the Emperor of Russia. January 21, 1825.*

*To the Senate and House of Representatives of the United States:*

I communicate, herewith, to both Houses of Congress, copies of the Convention between the United States and His Majesty the Emperor of all the Russias, concluded at St. Petersburg on the 5th (17th) of April last; which has been duly ratified on both sides, and the ratifications of which were exchanged on the 11th instant.

JAMES MONROE.

*Washington, 18th January, 1825.*

*By the President of the United States of America.*

### A PROCLAMATION.

Whereas a Convention between the United States of America and His Majesty the Emperor of all the Russias, was concluded and signed at St. Petersburg, on the 5th (17th) day of April, in the year of our Lord one thousand eight hundred and twenty-four; which Convention, as translated from the French language, is, word for word, as follows:

*In the name of the most Holy and Indivisible Trinity:*

The President of the United States of America and His Majesty the Emperor of all the Russias, wishing to cement the bonds of amity which unite them, and to secure between them the invariable maintenance of a perfect concord, by means of the present Convention, have named, as their Plenipotentiaries, to this effect, to wit: The President of the United States of America, HENRY MONROE, a citizen of said States, and their Envoy Extraordinary and Minister Plenipotentiary near his Imperial Majesty; and His Majesty the Emperor of all the Russias, his beloved and faithful CHARLES ROBERT Count of NESSELDORF, actual

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Privy Counsellor, Member of the Council of State, Secretary of State directing the administration of Foreign Affairs, actual Chamberlain, Knight of the order of St. Alexander Nevsky, Grand Cross of the order of St. Vladimir of the first class, Knight of that of the White Eagle of Poland, Grand Cross of the order of St. Stephen of Hungary, Knight of the orders of the Holy Ghost and of St. Michael, and Grand Cross of the Legion of Honor of France, Knight Grand Cross of the orders of the Black and of the Red Eagle of Prussia, of the Annunciation of Sardinia, of Charles III. of Spain, of St. Ferdinand and of Merit of Naples, of the Elephant of Denmark, of the Polar Star of Sweden, of the Crown of Wirtemberg, of the Guelphs of Hanover, of the Belgic Lion, of Fidelity of Baden, and of St. Constantine of Parma; and *PIERRE DE POLETICA*, actual Counsellor of State, Knight of the order of St. Anne of the first class, and Grand Cross of the order of St. Vladimir of the second; who, after having exchanged their full powers, found in good and due form, have agreed upon, and signed, the following stipulations:

*Article 1st.*—It is agreed, that, in any part of the Great Ocean, commonly called the Pacific Ocean, or South Sea, the respective citizens or subjects of the high contracting powers shall be neither disturbed nor restrained, either in navigation or in fishing, or in the power of resorting to the coasts, upon points which may not already have been occupied, for the purpose of trading with the natives, saving always the restrictions and conditions determined by the following articles:

*Article 2d.*—With the view of preventing the rights of navigation and of fishing, exercised upon the great ocean by the citizens and subjects of the high contracting powers, from becoming the pretext for an illicit trade, it is agreed that the citizens of the United States shall not resort to any point where there is a Russian establishment, without the permission of the governor or commander; and that, reciprocally, the subjects of Russia shall not resort, without permission, to any establishment of the United States upon the Northwest Coast.

*Article 3d.*—It is moreover agreed, that, hereafter, there shall not be formed by the citizens of the United States, or under the authority of the said States, any establishment on the Northwest Coast of America, nor in any of the Islands adjacent, to the north of fifty-four degrees and forty minutes of north latitude; and that, in the same manner, there shall be none formed by Russian subjects, or under the authority of Russia, south of the same parallel.

*Article 4th.*—It is, nevertheless, understood, that, during a term of ten years, counting from the signature of the present Convention, the ships of both powers, or which belong to their citizens or subjects, respectively, may reciprocally frequent, without any hindrance whatever, the interior seas, gulfs, harbors, and creeks, upon the coast mentioned in the preceding article, for the purpose of fishing and trading with the natives of the country.

*Article 5th.*—All spirituous liquors, fire-arms, other arms, powder, and munitions of war of every kind, are always excepted from this same commerce permitted by the preceding article; and the two powers engage, reciprocally, neither to sell, or suffer them to be sold to the natives, by their respective citizens and subjects, nor by any person who may be under their authority. It is likewise stipulated that this restriction shall never afford a pretext, nor be advanced, in any case, to authorize either search or detention of the vessels, seizure of the merchandise, or, in fine, any measure of constraint whatever, towards the merchants or the crews who may carry on this commerce; the high contracting Powers reciprocally reserving to themselves to determine upon the penalties to be incurred, and to inflict the punishments in case of the contravention of this article, by their respective citizens or subjects.

*Article 6th.*—When this Convention shall have been duly ratified by the President of the United States, with the advice and consent of the Senate, on the one part, and on the other by His Majesty the Emperor of all the Russias, the ratifications shall be exchanged at Washington in the space of ten months from the date below, or sooner, if possible. In faith whereof the respective Plenipotentiaries have signed this Convention, and there-to affixed the seals of their arms.

Done at St. Petersburg, the 17th (5th) April, of the year of Grace one thousand eight hundred and twenty-four.

HENRY MIDDLETON.  
LE COMTE C. DE NESSELRODE.  
PIERRE DE POLETICA.

And whereas the said Convention has been duly ratified on both parts, and the respective ratifications of the same were exchanged at Washington, on the eleventh day of the present month, by JOHN QUINCY ADAMS, Secretary of State of the United States, and the Baron de TUXILL, Envoy Extraordinary and Minister Plenipotentiary of his Imperial Majesty, on the part of their respective Governments:

Now, therefore, be it known, that I, JAMES MONROE, President of the United States, have caused the said Convention to be made public, to the end that the same, and every clause and article thereof, may be observed and fulfilled with good faith by the United States and the citizens thereof.

In witness whereof, I have hereunto set my hand, and caused the seal of the United States to be affixed. Done at the City of Washington, this twelfth day of January, in the year of our Lord one thousand eight hundred and twenty-five, and of the Independence of the United States the forty-ninth.

JAMES MONROE.

By the President:  
JOHN QUINCY ADAMS,  
Secretary of State.

## LETTER

*From the Secretary of State, transmitting information in relation to the Commercial Relations, (as they at present exist,) between the United States and the kingdom of the Netherlands. February 11, 1825.*

DEPARTMENT OF STATE,  
Washington, 10th February, 1825.

The Secretary of State, in obedience to a resolution of the House of Representatives, of the 21st of January last, directing him to communicate to that House any information he may have in this Department, "showing whether the duties levied on the tonnage of the vessels of the United States, entering the ports of the kingdom of the Netherlands, and on the merchandise with which they may be loaded, exceed those paid by the vessels belonging to the said kingdom," has the honor to submit to the House of Representatives copies of the correspondence in this Department, having relation to that subject.

Respectfully submitted,  
JOHN QUINCY ADAMS.

*Extracts of a letter (No. 102) from Mr. Everett, to Mr. Adams, dated*

BRUSSELS, 17th March, 1823.

"I have the honor to enclose copies of two notes, which I have lately had occasion to address to Baron de Nagell, and of his answer to them."

"The reply to my application in regard to the difference in the duties imposed upon goods imported in

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national and foreign vessels, is merely an acknowledgment of the receipt of the note. As the principal object of the new financial system is to encourage the commerce and navigation of this country, it is perhaps hardly to be expected that the exception which I have suggested in favor of the United States, will be admitted. If it is not, a partial repeal of the law of the 20th of April, 1818, will probably be thought necessary. But, as this measure cannot be taken till the meeting of the next Congress, there will be ample time in the interval to receive the definitive answer of this Government."

"A separate discriminating duty in favor of national vessels has also been imposed, since the commencement of this year, upon the importation of coffee from Batavia, which is to be in force until the end of 1824."

*Mr. Everett to the Baron de Nagell.*

BRUSSELS, March 7, 1823.

SIR: The new Tariff, which has recently gone into operation, contains several articles affecting the commercial relations between this country and the United States. I think it my duty to invite your Excellency's attention to these articles, and to point out the manner in which they will operate upon the American trade.

Your Excellency will recollect that the Government of the United States, by the law of the 20th of April, 1818, extended to the ships of the Netherlands, arriving in the ports of the Republic, nearly the same privileges that are enjoyed by our own. They pay the same tonnage duty, and also the same duties on their cargoes, as far as these consist of articles, being of the growth or manufacture of the Netherlands, or of such neighboring countries as usually ship their products from the Dutch ports. These privileges were granted to the commerce of the Netherlands in consequence of the adoption, in this kingdom, of the law of October 3, 1816, which abolished the discriminating tonnage duty, and of the understanding that there was no other discriminating duties in force. If any change were to take place in the laws of this kingdom, in either of these respects, the natural consequence would be a corresponding change in those of the United States.

I regret to find that the new financial system appears to contemplate some important alterations of this description. Several articles of the tariff establish a difference of duties in favor of goods imported in Dutch vessels: and the law of 26th August, 1822, creates, in the form of a drawback, a general discrimination to the same effect; the 10th article being as follows: *One tenth of the duties paid upon the importation, or exportation, of all goods, shall be returned when the same are imported; or exported in Dutch vessels, excepting those articles, of which the importation and exportation in Dutch vessels, are otherwise specifically favored by the tariff.*

It has always been the wish of the Government of the United States, to lend its aid in placing the commerce of the world upon the most liberal footing. With this view, it was proposed to all the powers of Europe, soon after the close of the late wars, to abolish, mutually, all discriminating duties on tonnage; and the proposition having been, in substance, accepted by the Government of the Netherlands, the arrangement took effect between the two countries. As it was also understood that no other discriminating duties existed, a similar regulation was established in favor of goods imported in Dutch vessels, into the United States. It is obvious, however, that these privileges cannot be continued upon any other principle than that of reciprocity. It would not suit, either with the honor or interest of the United States, that the merchants of the Netherlands should enjoy, in our ports, the same advantages with native citizens, while our merchants were subjected in this country to unfavorable discriminations. If this Government is resolved to abandon the equalizing system, which led

to the enactment of our law of April 20, 1818, the immediate and necessary consequence will be, the repeal of that law, as far as it applies to the vessels of the Netherlands.

I must, therefore, take the liberty of requesting your Excellency to inform me, whether it is the intention of the Government of this country, that the new principles, introduced by the late tariff, shall be applied to the American trade. The Government of the United States has no wish to interpose, in any way, with the policy of the Netherlands; and has never sought, or accepted, exclusive or onerous commercial advantages in the ports of any nation. The liberal system which has lately prevailed, in the intercourse between the two countries, was regarded as mutually beneficial, and as conformable to the general spirit of the administration of both. I assure your Excellency, that my Government would regret to find itself compelled to depart from this system; and I venture to hope that you will furnish me with such explanations as may shew that a measure of that kind will not be necessary.

I have the honor to be, with high respect, Sir,

Your Excellency's obedient servant,  
A. H. EVERETT.

*Extract of a letter (No. 105) from Mr. Everett to Mr. Adams, dated*

BRUSSELS, June 1, 1823.

"I transmit, herewith, copies of an answer from Baron de Nagell, to my note of the 7th of March, respecting the discriminating duty established by the new provincial system, and of my reply."

*Baron de Nagell to Mr. Everett.*

[TRANSLATION.]

The undersigned, Minister of Foreign Affairs, being eager to lay before the King the note which Mr. Everett, Charge d' Affaires of the United States of America, sent him, of the 7th of this month, has the honor of informing him, that the observations which it contains on the new system of imposts of the kingdom of the Netherlands, as far as it applies to the commerce of the United States, shall be immediately taken into grave consideration.

The undersigned flatters himself with being shortly enabled to give to Mr. Everett the desired explanations on this subject, and embraces this occasion to renew to him the assurance of his distinguished consideration.

A. W. C. de NAGELL.

Brussels, 10th March, 1823.

*Baron de Nagell to Mr. Everett.*

[TRANSLATION.]

The new system of duties introduced into the Kingdom of the Netherlands, having naturally appeared to the Government of the United States of America to produce a change in the commercial relations between the two countries, Mr. Everett had thought it his duty to demand, by the note which he had done him the honor of addressing to the undersigned Minister of Foreign Affairs on the 7th of March last, explanations proper to tranquilize in this regard the Government of the United States, or to direct its future conduct.

The King has just authorized the undersigned to give here the explanations desired.

The 10th article of the law which precedes the new tariff of duties of entry and clearance, is the argument upon which Mr. Everett founds his representations. The article grants a drawback of ten per cent. of the duties on merchandise imported or exported by the vessels of the Netherlands; now, as, by an act of Congress of the United States, of 20th April, 1818, all difference of treatment between the ships of the Netherlands and

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America has been abolished, founded upon this, that in the kingdom of the Netherlands the flag of the United States enjoyed the same advantages as the national flag; the new disposition of the tariff appears to Mr. Everett to be in opposition to the principle of reciprocity.

The answer is found in the aim of this disposition, which does not appear to have been well understood.

By the laws of the 12th June 1821, and 10th August last, the duties remain without distinction, the same for foreign ships and for national. This restitution of a tenth for the merchandise imported by the ships of the Netherlands, has done no more (as the 11th article of the law of the 12th July, 1821, expresses it,) than to give encouragement and proper aid to the works of the nation. This restitution therefore supplies the place of the premiums of encouragement which the Government might have granted to every ship built in the Netherlands; a disposition which certainly never could have given room to the American Government to complain of an inequality of treatment in respect to the ships. If the Government of the United States had found it good to grant a similar premium to the American ships, surely the King could have found in that no cause of remonstrance. His Majesty would have only seen in it a bounty intended to encourage, or to favor, the manufactures of the nation.

Although the Government of the Netherlands might confine itself to this explanation, the undersigned has, nevertheless, been charged to take advantage of this occasion to examine the question more thoroughly. In approaching it with frankness, it will be easy to find, in the conduct of the United States, the justification of what is charged upon the Government of the Netherlands.

After the negotiations begun at the Hague, by the respective commissioners for a treaty of commerce, were interrupted, the act of Congress of 20th April, 1818, was passed. In the course of these negotiations, observation was made to the American commissioners of the liberality of the Government of the Netherlands in its relations with America, and an attempt was made to convince them that at all times the American flag had been more favored here than the flag of the Netherlands had been in America.

Such are apparently the reports of the American Plenipotentiaries, as well as the representations of the Charge d'Affaires of His Majesty at Washington, which produced this act of 20th April, 1818, by which that of 3d March, 1815, concerning the general, but conditional abolition of *discriminating* duties has been rendered applicable, and even amplified, to the flag of the Netherlands. As long as this state of things exists, the explanations demanded in the official letter of Mr. Everett, may appear proper.

But can Mr. Everett be ignorant that his Government is upon the point of revoking the prolongation of these advantages? and that an act of the 3d March, 1819, decrees that the two acts before cited (that of 3d March, 1815, and of 20th April, 1818,) shall cease to be in force at the date of 1st January, 1824? and that, in consequence, the equalization of duties of entry and clearance, and the duties of tonnage of vessels under the flag of the Netherlands, in the different ports of the United States, will no more continue after that time?—His note would cause the presumption that he had no knowledge of it; otherwise, we may be allowed to believe that he would not have addressed it. It is, doubtless, a matter of surprise, that he has not been informed of a disposition which so essentially changes the state of affairs; but, although it do not belong to this article, it is sufficient that it is impossible for the Government of the Netherlands to call in question the existence of this revocation, for having a ground upon which the commercial relations with the United States are to be found,

and to know which of the two Governments has made the commencement.

The discussion of the causes which can have determined the American Government to revoke, from the beginning of the following session of Congress, the act of 20th April, 1818, is unknown to the Government of the Netherlands. No conjecture will be permitted, if the measure, in place of being specially directed against the commerce of the Netherlands, do not rather announce a complete alteration of system.

The deliberations of Congress in the Fall, will resolve this problem; but, in the mean time, the certain prospect of losing the advantages assured by the act before-mentioned, to our commerce or to our navigation, alone serves as a sufficient cause for preventing the Government of the Netherlands from establishing any exception in the new tariff in favor of the American flag.

The undersigned has the honor to renew to Mr. Everett the assurance of his distinguished consideration.

A. W. C. de NAGELL.

Brussels, 27th May, 1823.

Mr. Everett to the Baron de Nagell.

BRUSSELS, May 31, 1823.

SIR: have just received your Excellency's answer to the note which I had the honor of addressing to you on the 7th March, upon the subject of some of the provisions of the new tariff, and learn, with regret, from this communication, that it is the King's intention to enforce these provisions against the commerce of the United States. I shall immediately transmit your reply to my Government, who will judge how far the new policy of this country is justified by the arguments you allege in its favor, and what measure it may be expedient for them to adopt under the circumstances of the case.

Without pretending to anticipate the decision of the President and Congress of the United States, upon this subject, I think it my duty to add here a few short remarks, relating chiefly to the latter part of your Excellency's note, in which you dwell upon the effect of the act of March 3, 1819. You appear to consider this act as a definitive repeal of the two former laws on the same subject, and looking at it from this point of view you naturally conclude that it forms of itself a complete reply to the reasoning in my note, and that, because I did not mention it, I could not be aware of its existence. The act is a document of public notoriety, and is printed in the collection of the laws of the United States, with the other laws which I had occasion to quote. It produced no material effect upon the relations between the countries, and did not therefore require to be mentioned in the course of my remarks upon the subject. I rather regret, however, that I had not attended to it, and explained its operation, inasmuch as the construction given to it by your Excellency, though erroneous, was natural enough in a foreigner unacquainted with the forms of our legislation, and seems to have had an unfavorable influence upon the whole tenor of your reply.

The object of this act, which wears the shape of a repeal of the two former ones, was to fix a time when the subject should be taken up again in Congress. A limitation of this sort is with us, annexed to almost all new laws of much importance, and often makes a part of them. It furnishes, therefore, in this case, no proof of an intention to change the system: and as the laws and negotiations of the United States, subsequent to its adoption, prove on the contrary their disposition to adhere to it, there is little or no reason to doubt that the result of a reconsideration of the subject, will be to re-enact the law, with such alterations as may appear expedient.—Among these alterations will probably be, the repeal of the privileges granted by the act, to any powers which may have subsequently withdrawn the corresponding privileges, formerly allowed by them to the citizens of

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the United States. Hence, the only effect of this act, upon the relations between those states and the Netherlands, will be to fix the time when the American Government will probably remodel their system, in conformity to that which may be in force here: and if the King is really desirous to continue those relations upon their present footing, the act of March 3, 1819, instead of operating as an objection to the allowance of an exemption to American vessels, from the effect of the new tariff, would serve, on the contrary, as a reason for taking such a measure with the least possible delay.

Such are the remarks which I have thought it my duty to communicate to your Excellency, in relation to the act of March 3, 1819. The other part of your answer, which treats more directly the points in question, would also admit of some objections. You intimate that, provided the duties levied upon foreigners and native citizens, are nominally the same, a Government may allow a drawback in favor of the latter, without subjecting itself to the charge of partiality. This distinction seems, however, to be more formal than real: and if the foreigner actually pays in any way ten per cent. more than the citizen, it would be rather difficult to prove that they are placed upon an equal footing; or in other words, that they pay the same. Your Excellency also remarks, that the discrimination established by the new law, in favor of the subjects of the Netherlands, is justifiable, on account of its object, which was to encourage the navigation of the country. In regard to this point, I must take the liberty to suggest, that the end, supposing it to justify the means, does not change their character, nor, in this instance, prove that a discrimination in favor of citizens is consistent with perfect impartiality between citizens and foreigners. The American Government had in view the same object, viz. the encouragement of the navigation of their country, in establishing a discriminating tonnage duty in favor of our own vessels: but they certainly never thought of maintaining that the foreigners, against whom this discrimination operates, are as favorably treated in our ports as the citizens of the United States; or of claiming, under this pretence, an impartial treatment for the latter in the ports of such foreigners.

I must, however, beg your Excellency, in conclusion, not to consider these new remarks as intended for the purpose of urging very strenuously upon the Government of the Netherlands, a compliance with the proposition contained in my note of the 7th of March. My principal object has been to explain one or two points in that communication, which you seem to have misunderstood.—The people of the United States are too well satisfied with the goodly heritage which the bounty of Providence has allotted to them; and too abundantly supplied from their own territories with the best products of almost all climates, to solicit very anxiously of any foreign power the concession of favors, commercial or political. In proposing to other nations to open to them, on a footing of equality, the immense and various resources of our vast Republic, they conceive themselves to be acting for the good of those nations and of humanity, as well as for their own. If the King does not deem it expedient for himself or his subjects to accept this offer, the Government of the United States, without complaining of his refusal, and without suffering much from it, will, doubtless, regret that the views of so enlightened a monarch upon a great question in political economy, should be different from their own.

I have the honor to be, with the highest respect, sir,

Your Excellency's very ob't. serv't.

A. H. EVERETT.

*Copy of a letter from the Secretary of State to Mr. Everett, Charge d'Affaires of the United States to the Netherlands.*

DEPARTMENT OF STATE, 9th Aug. 1823.

SIR: Your despatches, to No. 105, inclusive, have been received, and your letters marked private, to No. 27.

The object requiring most immediate attention is your correspondence with the Baron de Nagell, concerning the law of the Netherlands, of the 26th of August, 1822, establishing a *drawback* of one-tenth of the duties upon merchandise exported or imported in national vessels, and referring to other *favours* to the national flag, in the general law, and in the tariff.

The view you have taken of both parts of the agreement, in the Baron de Nagell's note of the 27th of May, is approved, and leaves me little to say in addition to it. From the strenuous manner in which the Baron urges the act of Congress of the 3d March, 1819, in justification of the new discriminations in the law of the Netherlands, it is apparent that he places little reliance upon the other part of his note. The object of *all* discriminating duties is to favor the national shipping and ship-building interest; and whether in the shape of additional impost, of tonnage, of drawback, or of bounty, they are alike felt in the competition of navigation, and alike incompatible with the principle of equal privilege and burden. It will be proper, therefore, explicitly to state, that the case hypothetically stated by the Baron de Nagell, of a bounty upon ship-building, is considered by this Government as much within the principle of discriminating duties as a direct tonnage duty, and equally at variance with the system of equalization established with a mutual understanding between the United States and the Netherlands, by reciprocal acts of legislation.

The limitation prescribed by the act of Congress of 3d March, 1819, was, as you have observed, no intimation on their part, to abandon the system. The act of 3d March, 1815, was an experimental offer, made to all the maritime nations: it was, in the course of the same year, accepted by Great Britain, confirmed in the form of a convention. A similar effort was made with the Netherlands in 1817, but without success; but the principle of equalization was established by corresponding legislative acts. The Hanseatic cities and Prussia, successively acceded to the same system, and, as well as the Netherlands, required an extension of the equalizing principle offered by the act of Congress of 3d March, 1815, to merchandise of the growth, produce, or manufacture, of countries, other than that to which the vessel should belong; but, usually, first exported from thence. In conceding this extension of their first offer to the cities of Hamburg and Bremen, and to Prussia, after having yielded it to the Netherlands, Congress thought proper to fix a time for a deliberate revision of the whole system; and, therefore, limited the duration of all the laws relating to it, to the first of January, 1824. But neither Congress, nor the Executive Government, have manifested any intention to abandon the system. The President has, on the contrary, more than once, expressed the favorable view in which it is considered by him, and particularly in his message to Congress, at the opening of the session, on the 3d December, 1821.

The whole subject will, undoubtedly, be one of the first objects of deliberation at the ensuing session of Congress. There is no reason to doubt that the existing equalization with regard to the Netherlands would be continued, but for the change which has been made on their part. A declaration from that Government that the discriminations against which you have made representations, have not been, and will not be, applicable to the United States, so long as the vessels of the Netherlands, in the ports of the United States, shall continue to enjoy the equalization secured to them by the acts of Congress of 3d March, 1815, and 20th April, 1818, will supersede, without doubt, all change of the existing regulations here, favorable to the navigation of that country. It is very desirable that you should obtain such a declaration in time to forward it, so that it may be received here by the first Monday in December, when the session of Congress will commence, or as soon after as possible. The act of Congress on the revision of the system, will probably pass in the course of that month.



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In the Baron de Nagell's note mention is made of three laws of the Netherlands, in relation to this subject, of the 12th of June, and 12th of July, 1821, and of the 10th of August, 1822. I will thank you to send me copies of all these acts in French, and also of the law of the 26th of August, 1822, and of the new tariff.

I am, with great respect, sir,

Your very humble and obedient servant,  
JOHN QUINCY ADAMS.

ALEX. H. EVERETT, Esq.

Charge d'Affaires, U. S. to the Netherlands.

Mr. Everett to Mr. Adams—No. 107.

BRUSSELS, November 11, 1823.

SIR: Your despatches of the 8th and 9th of August, which came under the same cover, were received on the first of November. Agreeably to your instructions, I immediately addressed notes to the Baron de Nagell upon the subjects of both, copies of which are enclosed. I have requested an early answer respecting the discriminating duty; but there is very little chance of obtaining it in time for it to be known at Washington before the new law is passed.

The laws of July 12, 1821, and August 26, 1822, are the only ones quoted by the Baron de Nagell in his note of May 27. The appearance of a different date in one of the passages, in which they are alluded to, arose from an accidental error of the clerk in the original note, which, it seems, was retained in the hurry of writing, in my copies. The beginning of the fifth paragraph should read, *D'après les lois du 12 Juillet, 1821, et 26 Aout dernier, instead of D'après les lois du 12 Juin, 1821, et 10 Aout dernier.* The law of the 12th of July, and the tariff of the 26th of August, were transmitted to the Department about the time of their adoption, viz: the former with my despatch, No. 80, and the latter with my letter, marked "private No. 18." The general law of the 26th of August was not sent with the tariff, not being then in print. I have now the honor of sending you copies of both, bound together in a volume. I have made inquiry for the law of July 12, but have not yet been able to procure it; and the copy I have on hand, is bound up in a volume with several other documents, which would be useless at the Department. As soon as I can obtain a copy, I shall certainly transmit it to you. In the mean time, if you should have occasion to consult this law, you may, perhaps, find upon the files the copy which was sent before. It is, however, a mere statement of general principles, preliminary to the laws of August 26, 1822, and contains no regulations whatever, intended for immediate practical effect.

You will observe, that, beside the general drawback of ten per cent. in favor of national vessels, there are discriminations to a similar effect upon several separate articles. The principal of these are tea, coffee, and sugar. The duty on teas is raised by the present tariff; but the discrimination has existed since the year 1817, and does not appear to have been considered as inconsistent with the equalizing system, probably because the article is not of the growth of the United States. The discrimination in regard to coffee, established by the general law, article 5, sec. 9, is new; but being in favor of the national colonial trade, is not, perhaps, a fair subject of complaint. The additional duty on sugar, imported in foreign vessels, is, however, a direct violation of the equalizing system; as are, also, those upon one or two other articles of less importance, such as salt, molasses, and wood for building, which, with the three mentioned above, are the only ones in which I have noticed any special discrimination.

A decree has lately been published, offering a bounty of eight florins per ton, on all ships of above three hundred tons burden, built within the country for three years to come. This regulation, which is intended to

encourage the building of national ships, and not the trade in such ships after they are built, is, of course, no violation of the equalizing system. I have thought, since this decree made its appearance, that a bounty of this kind must have been intended by the Baron de Nagell in his note of May 27; as the distinction between the effect of a bounty on transportation in national ships, and a formal discrimination in the duties, seems to be really too absurd to be taken in earnest by any man of common sense. If the Baron meant by his *prime d'encouragement*, a bounty on ship building, it is true, as he says, that such a bounty would form no subject of complaint; but this fact does not strengthen his argument, because, such a bounty has no analogy whatever to the drawback on goods imported in national ships. I should, perhaps, have introduced this idea in my note of the 5th, but I had written and transmitted it before the decree was in print.

I have the honor to be, with high respect, sir,

Your most obedient, and very humble servant,

A. H. EVERETT.

HON. JOHN QUINCY ADAMS,

Secretary of State.

Mr. Everett to Baron de Nagell.

BRUSSELS, November 5, 1823.

SIR: I have the honor to inform your Excellency that I have just received the instructions of my Government, in regard to the subjects treated of in my note of the 7th of last March. I am directed to communicate to you, for the information of His Majesty, the President's views respecting that affair.

My object in the note just mentioned, was to remonstrate against certain parts of the new financial law, which appeared to me to infringe the system of impartiality, that has formed for some time past the basis of the commercial relations between the United States and the Netherlands; and, I specified particularly, the tenth article of the law of the 20th of August, 1822, which establishes a drawback of ten per cent. of the whole amount of duties in favor of goods imported in Dutch vessels. Your Excellency did me the honor to state in reply, in your note of the 27th of May, that these distinctions were justifiable on the ground of their patriotic design, which was no other than to afford a suitable encouragement to the shipping of the country.—You remarked, that a drawback in favor of the citizen, was not equivalent in principle, to a formal discrimination against foreigners, but rather to a bounty—a measure not inconsistent, in the view of His Majesty's Government, with a system of perfect impartiality between citizens and foreigners; and you added in conclusion, that, supposing the article in question to be really inconsistent with such a system, the Government of the United States would still possess no right to demand their repeal, inasmuch as they had already, by their act of March 3, 1819, revoked their own former laws in favor of the commerce of the Netherlands.

As your Excellency insisted a good deal upon this last point, and expressed some surprise that I had not alluded in my note to this act of 1819, I thought it my duty to inform you at the time, by my answer of May 31, that the law in question was intended merely to determine the period at which the subject should be taken up again in Congress, and that the Government of the United States had no design of abandoning the established system. I added, that the distinction pointed out by your Excellency between the different modes of favoring the shipping of a country, did not appear to me to be strictly just, and that, if foreigners really paid ten per cent. more than subjects, it was of little importance to them, whether they did it in one form or another. Confining myself to these remarks, I referred the matter to my Government for decision, and transmitted to Washington the correspondence that had passed.

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I have now the honor of informing your Excellency, by direction of the President, that he has learned with much regret, the intention of His Majesty's Government to alter the liberal system which has been in force for some time past, and which was considered as beneficial to both parties, and conformable to their general principles of administration.

As to the reasoning, by which your Excellency justifies this change, in your note of the 27th of May, my Government confirms in general, the remarks which I had made in reply to it, in my communication of the 31st of the same month. The President cannot admit the correctness of the distinction between the effect of a bounty or a drawback, and that of a formal discrimination. He thinks, on the contrary, that impartiality is at an end whenever the foreigner finds himself in any way less advantageously situated than the native; and is rather surprised, that the Government of the Netherlands should question a principle which appears so perfectly evident. And, as your Excellency seems to have taken it for granted, that the Government of the U. States would not have considered a bounty on the transportation of goods in Dutch vessels, as any violation of the equalizing system, I am authorized to assure you explicitly, that, in the view of the American Government, such a measure would be entirely inadmissible, being equivalent in principle, as it is in effect, to a formal discrimination.

The patriotic intention of His Majesty's Government, in adopting these measures, is highly honorable to the character of the king and his ministers; but cannot, certainly, be understood to reconcile contraries, or to prove that discriminations in favor of native citizens are consistent with a system of impartiality between citizen and foreigner. The encouragement of the national industry is, doubtless, with enlightened governments, the principal object of all commercial regulations; and, in seeking to effect this object, each government adopts the policy which appears to suit best with its particular position. Some nations attempt to include the competition of foreigners, by [placing] them higher than citizens', and by granting bounties to the latter; while others, on the contrary, endeavor to make their dominion the marts of general commerce, and hold out every possible inducement to foreigners to frequent their ports. This latter policy was formerly preferred in the Netherlands, at the time when Bourges, Antwerp, and Amsterdam, figured, in succession, with so much brilliancy, at the head of the industry and commerce in Europe: and it seems, in fact, to agree very well with the situation of a country of limited extent and dense population—watered by numerous rivers, that connect it with the more productive parts of Europe, and embosomed in seas that afford an easy intercourse with all the rest of the world. Both these systems, however, have their peculiar advantages; and each supposes alike, on the part of the administration, the intention to encourage national industry, and promote the public good. But, were it even admitted that the exclusive policy were more advantageous, and, consequently, more patriotic than the liberal one, it would still be not the less certain that the two are essentially different; and that partial measures, however patriotic they may be, can never be impartial.—Your Excellency remarks, in your note of the 27th of May, that the bounties and drawbacks allowed to the subjects of the Netherlands, furnish the American Government with no just ground of complaint, because these measures are intended to protect and encourage the shipping of the country. But however just and laudable this design may be, in itself, the partial measures adopted in pursuance of it are, unquestionably, fair subjects of complaint with any foreign nation which has a valid claim to be treated on a footing of impartiality.

Having submitted to your Excellency, by order of my Government, these additional observations upon the first

part of your note of the 27th of May, I am directed to remark further, that the President is disposed to believe and to hope that the change of system which has taken place, has been owing, chiefly, to a misunderstanding of the object of the act of March 3, 1819. In regard to this point, I am now authorized to assure you, explicitly, in the name of my Government, as I have done before in my own, that the object of the act was, simply to fix a time when the subject should be re-considered in Congress, and that the Government has no intention, whatever, to abandon the system. The acts and negotiations that have taken place, since its adoption, and the messages addressed, by the President, to Congress, in particular that of December, 1821, attest the steady disposition of the administration, in all its branches, to maintain this course. The laws, which expire at the end of the year, will be doubtless re-enacted, with such modifications as may appear expedient: and if one of these modifications should be the omission of the name of the Netherlands from the list of privileged nations, the change will be owing, entirely, to the new regulations contained in the Dutch law, of August 26, 1822.

The American Government is, however, inclined to hope, that this retaliatory measure will not be necessary; and that, if the act of March 3, 1819, has been explained to the satisfaction of His Majesty, he will re-consider the provisional decision, announced in your Excellency's note, of the 31st of May, and restore to the American trade the privileges which it has heretofore enjoyed.—Should this be the case, I will thank your Excellency to give me as early information of the fact as may be convenient, that I may transmit it immediately to Washington. The subject will, probably, be taken up in Congress before the close of the year; and it is desirable that the king's final decision should be known previously to the passage of the new law.

Your Excellency will permit me to remark, in conclusion, that the privilege enjoyed by the Dutch flag, of covering the products of Germany and Switzerland, has, also, been extended to the flags of Prussia and the Hanse Towns. As the ports of the Netherlands are more conveniently situated for shipping these products to the United States, it is believed that the greater part of this commerce now takes that direction. If, however, the privilege in question, should be revoked, as respects the Netherlands, and continued to the other above mentioned powers, there would then be an advantage of ten per cent. in conveying the products of the interior of Europe to the United States, through the ports of Prussia and the Hanse Towns, rather than those of this country: and this difference, in the present state of commerce, would decide the preference. The subjects of the Netherlands will, therefore, lose, by the effects of the new system, not only a considerable advantage in the carriage of their own products, but the profits of a pretty important and lucrative branch of trade which they must now nearly monopolize.

I have the honor to be, with high respect, sir,  
Your Excellency's very obedient servant,  
A. H. EVERETT.

—  
Mr. Everett to Mr. Adams.—(No. 110.)

BRUSSELS, February 21, 1824.

SIR: I learn from the public papers that a new law has been enacted on the subject of the discriminating duties, and presume that I shall receive a copy of it from you, with instructions to communicate it to this Government. But, as the time of my departure is now pretty near, I thought it advisable, in order to give them an opportunity to deliberate upon the matter before I go, not to wait for this, but to address a note at once to the Minister of Foreign Affairs. I have accordingly sent one, of which I have the honor to enclose a copy. If I should hereafter receive any orders from you upon the

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subject. I shall give them, of course, the most punctual attention, and take any further measures that they may prescribe.

I have the honor to be, with high respect,  
Sir, your very obedient humble servant,  
A. H. EVERETT.

HON. JOHN QUINCY ADAMS,  
*Secretary of State.*

February 24.

*Postscript.*—Since writing the above, I have received from Mr. Reinhold a preliminary answer to my note, of which I have the honor to add a copy.

*Mr. Everett to the Chevalier de Reinhold.*

BRUSSELS, February 20, 1824.

SIR: I have the honor to inform your Excellency that the privileges granted to the Dutch flag, in the ports of the United States, by the act of the 20th of April, 1818, which expired at the close of the last year, have been renewed by the late law of January 9. As soon as I receive an authentic copy of the new act, I shall take the liberty of sending it to you. You will find in the Brussels Journal of the 16th inst. a French translation, which appears to be correct.

The passage of this law confirms the assurances which I gave to your predecessor, the Baron de Nagell, that the act of March 3, 1819, repealing that of April 20, 1818, was merely formal, and that the Government had no intention to abandon the system. The new act extends the privileges, granted by the former one, to all such foreign powers as may allow the same privileges to us in their ports, and for the same length of time. If any foreign power shall revoke these privileges, our law will cease to have its effect, in regard to such power. Hence, if the Government of the Netherlands shall so modify its new regulations as to make them inapplicable to the American trade, they will thereby retain the advantages they now enjoy in the ports of the Republic. If, on the contrary, they persist in putting these regulations in force against us, the President of the United States is authorized by the law to withdraw these privileges immediately, and to place the Dutch flag upon the footing of that of the least favored nations, by subjecting it to the additional duties that are levied upon foreigners.

As the principal cause, which appears to have occasioned the application of the new rules to the trade of the United States, no longer exists, the American Government have, perhaps, some right to flatter themselves that the effect will cease with it, and that the King will be disposed to continue, or rather to restore the equalizing system. Without entering now into the train of reasoning upon this subject, which I have already pursued at sufficient length in my former notes, I shall content myself upon the present occasion with remarking, that the answer with I may carry to my Government, upon my return to the United States, will probably be regarded as final; and that it would give me great pleasure to be the bearer of one that should tend, by its character, to strengthen the bonds of amity and good understanding that now so happily unite the two countries.

I have the honor to be, with high respect,  
Sir, your Excellency's very obed<sup>t</sup>. serv<sup>t</sup>.

A. H. EVERETT.

[TRANSLATION.]

*Mr. J. G. Reinhold to Mr. Everett.*

SIR: I have taken care to communicate without delay to the Department of Public Industry, the note which you did me the honor to address to me on the 20th of this month, on the subject of the law of the 7th January, by which the Government of the United States has renewed the principal dispositions in favor of the com-

merce of the Netherlands, from that of the 20th April, 1818, expired on the 31st December last, except the modification, in what concerns the navigation of the Republic, of articles of the new system of impositions in the Netherlands, which establish discriminations against strangers.

I have likewise informed His Majesty, as well of the course which you are about to pursue, as of the consequence which I have provisionally given to it, and I shall not fail, sir, to inform you of the determination which shall be taken in that regard, as soon as I shall be informed of it.

In the mean time, I take this occasion, sir, to renew to you the assurance of my very distinguished consideration.

J. G. REINHOLD.

HAGUE, 20th February, 1824.

*Extract of a letter from Mr. Everett to Mr. Adams, (No. 111,) dated*

BRUSSELS, 23d March, 1824.

"A file of the Intelligencer came to hand a few days ago, which contained the new law respecting the discriminating duties, I immediately transmitted a copy of it to the Minister of Foreign Affairs, accompanied by a short note, of which I have the honor to enclose a copy."

*Mr. Everett to the Chevalier de Reinhold.*

BRUSSELS, March 22, 1824.

SIR: I have the honor to transmit herewith to your Excellency, a copy of the new law mentioned in my note of the 20th of February. You will perceive that it secures all the privileges granted to the Dutch flag by the act of April 20, 1818, and particularly that of transporting to the United States, upon a footing of equality, the products of the interior of Europe. This provision was, I believe, omitted in the French translation of the act, published by the Brussels Journal.

I have had occasion, in several preceding notes, to offer to the consideration of His Majesty's Government such remarks as I thought would place the subject in its proper light: and I deem it unnecessary to renew the discussion at present. Requesting your Excellency to communicate the enclosed law to His Majesty the King,

I have the honor to be, with high respect, sir,  
Your Excellency's very obedient servant,  
A. H. EVERETT.

## REPORT

*Of the Committee of Ways and Means on the state of the Public Debt, accompanied with a bill authorizing the Secretary of the Treasury to borrow a sum not exceeding twelve millions of dollars, &c. &c.—January 12, 1825.*

The Committee of Ways and Means, to whom has been referred the "Report from the Secretary of the Treasury on the state of the Finances," of the 31st December last, Report:

That, in considering so much of the said report as relates to the public debt of the United States, it appears, that, on the first day of January, 1826, there will be redeemable of the six per cent. stock of 1813, \$19,000,000, and that the ordinary revenues of the year will not be adequate to the reimbursement of more than \$7,000,000, leaving an excess of \$12,000,000 to be provided for.

The whole amount of the public debt, including the loan of \$5,000,000, at 4½ per cent. authorized by the act of the 26th of May last, is found to be \$88,545,003 38. Of this sum, \$2,500,000 of the last mentioned loan not having been actually paid to the United States, could

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not be regularly included in the estimate of the Secretary of the Treasury at the close of the last year; but must, nevertheless, be considered as part of the debt, with a view to future years.

This sum of \$88,545,003 38, is redeemable as follows:

In 1825,	\$7,654,570	93	of six per cent.
1826,	19,002,356	62	six per cent. of 1813.
1827,	13,001,437	63	six per cent. of 1814.
1828,	9,490,099	10	six per cents.
1831,	00,018,901	59	
1832,	6,673,900	72	of which \$1,018,000 72 are at 5 per cent. and \$5,000,000 at 4½ pr. ct.
1833,	6,673,055	31	all at 4½ per cent. except \$18,901 59 at 5 per cent.
1834,	1,654,153	73	at 4½ per cent.
1835,	4,735,296	30	at 5 per cent.
	7,000,000	00	at pleasure, being the sub- scription to the capital of the Bank of the United States, at 5 per cent.
	13,296,231	45	at pleasure, being the 3 per cents.

\$88,545,003 38

By this statement it appears, that, in the years 1829 and 1830, no part of the public debt will be reimburseable, excepting the *seven millions* to the Bank, and the *three per cents.*; but, as these bear a less interest than that portion of the 6 per cents. of 1813, redeemable on the 1st of January, 1826, and which cannot, for the want of means, be reimbursed before the years 1829 and 1830, it is believed to be advisable to provide for that portion, by a new stock, at a reduced rate of interest, and payable at those periods.

The committee, therefore, recommend a new loan, or an exchange, to the amount of \$12,000,000, at a rate of interest not exceeding 4½ per cent. reimburseable in equal portions, in the years 1829 and 1830; and for that purpose report a bill.

### REPORT

*Of the Committee to whom was referred so much of the President's Message, of the 7th of December last, as relates to the Suppression of the Slave Trade.—Feb. 16, 1825.*

The Committee on the Suppression of the Slave Trade, to whom was referred so much of the President's message, of the 7th December last, as relates to that subject, have, according to order, had the same under consideration, and respectfully

### REPORT:

That, pursuant to the almost unanimous request of the House of Representatives, expressed by their resolution of the 28th February, 1823, the President of the United States concluded a convention with Great Britain, on the 13th March, in the following year, by which the African slave trade was denounced to be piracy under the laws of both countries; the United States having so declared it, by their antecedent act of the 15th of May, 1820, and it being understood between the contracting parties, as a preliminary to the ratification of the convention by the United States, that Great Britain should, by an act of Parliament, concur in a similar declaration.

With great promptitude, and in accordance with this agreement, such an act was passed, declaring the African slave trade to be piracy, and annexing to it the penalty denounced against this crime by the common law of nations. A copy of this act was transmitted, by the British Government, to the Executive of the United States, and the convention submitted, by the President, to the Senate, for their advice and consent.

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The convention was approved by the Senate, with certain qualifications, to all of which, except one, Great Britain *sub modo*, acceded; her Government having instructed its Minister in Washington to tender to the acceptance of the United States a treaty agreeing, in every particular, except one, with the terms approved by the Senate. This exception, the message of the President to the House of Representatives, presumes "not to be of sufficient magnitude to defeat an object so near to the heart of both nations," as the abolition of the African slave trade, "and so desirable to the friends of humanity throughout the world." But the President further adds, "that, as objections to the principle recommended by the House of Representatives, or, at least, to the consequences inseparable from it, and which are understood to apply to the law, have been raised, which may deserve a reconsideration of the whole subject, he has thought proper to suspend the conclusion of a new convention, until the definitive sentiments of Congress can be ascertained."

Your committee are therefore required to review the grounds of the law of 1820, and the resolution of 1823, to which the rejected, or, as they rather hope, the suspended convention, referred. The former was the joint act of both branches of Congress, approved by the President; the latter, although adopted with extraordinary unanimity, was the single act of the House of Representatives.

Upon the *principle* or *intention* of the act of Congress of 1820, making the slave trade punishable as piracy, the history of the act may reflect some light.

A bill from the Senate, entitled "An act to continue in force the act to protect the commerce of the United States, and punish the crime of piracy, and, also, to make further provision to punish the crime of piracy," came to the House of Representatives on the 27th of April, 1820, and was, on the same day, referred to a committee of the whole, to which had been referred a bill of similar purport and title, that had originated in the House of Representatives.

Upon the 8th of May following, the Committee on the Suppression of the Slave Trade reported an amendment of two additional sections to the Senate's bill; also, a bill to incorporate the American Society for Colonizing the free People of Color of the United States, and three joint resolutions, two of which related to the objects of that Society; but the first of which, in behalf of both Houses of Congress, requested the President "to consult and negotiate with all the governments where ministers of the United States are, or shall be accredited, on the means of effecting an entire and immediate abolition of the African Slave Trade." The amendatory sections denounced the guilt and penalty of piracy against any citizen of the United States, of the crew or company of any foreign vessel, and any person whatever of the crew or company of any American vessel, who shall be engaged in this traffic.

The amendments, bill, and resolutions, along with the explanatory report, which accompanied them, were referred to the committee of the whole abovementioned; and on the 11th of the same month, the House proceeded to consider them. After a discussion in the committee, the piracy bill, and its amendments having been adopted, were reported, and both were concurred in by the House. The following day, the bill, as amended, being then on its passage, a motion was debated and *negatived*, to recommit the bill to a select committee, with an instruction to strike out the last section of the amendment. The bill then passed, and was ordered to be returned, as amended, to the Senate.

On the same day, a motion prevailed to discharge the committee of the whole from the further consideration of the bill, and the resolutions which accompanied the report; and the particular resolution, already recited, being under consideration, to try the sense of the House

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on its merits, it was moved to lay it on the table. The yeas and nays having been ordered on this motion, it was rejected by a majority of 78 to 35 members. It having been again proposed to postpone the resolution, till the ensuing or second session of the same Congress, and this proposal being also determined in the negative, the resolution was engrossed, read the third time, passed, and ordered to be transmitted to the Senate on the same day with the piracy bill.

The amendments of this bill underwent like scrutiny, and debate, in the Senate, and were finally concurred in, the day after they were received from the House of Representatives, without any division apparent on the journal of that House.

The resolution which had been received by the Senate, at a different hour of the same day, was read a second time on the 15th of May, was further taken up and considered, as in committee of the whole, reported to the House without amendment, and ordered, without debate, to pass to a third reading. But this being the last day of the session of Congress, and a single member objecting "that it was against one of the rules of the Senate to read it a third time on the same day, without unanimous consent," it remained on the table of that body, on its final adjournment, after an ineffectual effort to suspend one of their rules, against which many of the friends of the resolution felt themselves compelled, by their invariable usage, to vote in union with its enemies.

One of the objections to the resolution, in the Senate, was founded upon the peculiar relation of that branch of the National Legislature to the Executive, in the ratification of treaties; which seemed, in the opinion of those who urged this argument, to interdict their concurrence in a request of the President to institute any negotiations whatever.

A cotemporary exposition of the object of the amendments of the piracy bill, and the resolution, which the House of Representatives adopted, by so large a majority, will be found in the report, which accompanied them, from the committee on the suppression of the slave trade, on the 8th May, 1822. Those objects, it will be seen, were in perfect accordance with each other. They were designed to introduce, by treaty, into the code of international law, a principle, deemed by the committee essential to the abolition of the African slave trade, that it should be denounced and treated as piracy by the civilized world.

The resolution being joint, and having failed in the Senate, for the reason already stated, the subject of it was revived in the House of Representatives, at a very early period of the succeeding session of Congress, by a call for information from the Executive, which, being received, was referred to a committee of the same title with the last. Their report, after reviewing all the antecedent measures of the United States for the suppression of the slave trade, urgently recommended the co-operation of the American and British navy against this traffic, under the guarded provisions of a common treaty, authorizing the practice of a qualified and reciprocal right of search.

This report closed with a resolution, requesting "the President of the United States to enter into such arrangements as he might deem suitable and proper, with one or more of the maritime powers of Europe, for the effectual abolition of the African slave trade."

The United States had, by the treaty of Ghent, entered into a formal stipulation with Great Britain, "that both the contracting parties shall use their best endeavors to accomplish the entire abolition of this traffic."

The failure of the only joint attempt which had been made by England and America, at the date of this report, to give effect to this provision, being ascribed, in part, to a jealousy of the views of the former, corroborated by the language and conduct of one of the promi-

pal maritime powers of Europe, in relation to the same topic, the committee referred to the decision of Sir William Scott, in the case of the French ship *Le Louis*, to demonstrate that Great Britain claimed no right of search, in peace, but such as the consent of other nations should accord to her by treaty; and sought it by a fair exchange, in this tranquil mode, only for the beneficent purpose of a more enlarged humanity.

Certain facts, disclosed by the diplomatic correspondence of France and England, during the pendency of that case, in the British Court of Admiralty, were calculated to guard the sympathies of America from being misguided by the language of the former power.

The painful truth was elicited, that France had evaded the execution of her promise at Vienna, to Europe and mankind. That she had, long after the date of that promise, tolerated, if she had not cherished, several branches of a traffic, which she had concurred in denouncing to be the opprobrium of Christendom, and which she had subsequently bound herself, by the higher obligations of a solemn treaty, to abolish, as inconsistent with the laws of God and Nature.

Succeeding events in the councils of the French nation have not impaired the force of this testimony. What authority can be accorded to the moral influence of a Government which insults the humanity of a generous and gallant people, by pleading, in apology for the breach of its plighted faith, that its subjects required the indulgence of this guilty traffic!

The Emperor Napoleon, who re-established this commerce on the ruins of the French Republic, also abolished it again, when he sought to conciliate the people of France, during that transient reign, which immediately preceded his final overthrow.

Congress adjourned without acting on this report.

By an instruction to the Committee on the Suppression of the Slave Trade, of the 15th of January, 1822, the same subject was a third time brought directly before the House of Representatives. The instruction called the attention of the committee to the present condition of the African slave trade; to the defects of any of the existing laws for its suppression, and to their appropriate remedies. In the report made in obedience to this instruction, on the 12th of April, 1822, the committee state, that, after having consulted all the evidence within their reach, they are brought to the mournful conclusion, that the traffic prevailed to a greater extent than ever, and with increased malignity; that its total suppression, or even sensible diminution, cannot be expected from the separate and disunited efforts of one or more states, so long as a single flag remains to cover it from detection and punishment. They renew, therefore, as the only practicable and efficient remedy, the concurrence of the United States with the maritime powers of Europe, in a modified and reciprocal exercise of the right of search.

In closing their report, the committee add, in effect, that they "cannot doubt that the people of America have the intelligence to distinguish between the right of searching a neutral on the high seas, in time of war, claimed by some belligerents, and that mutual, restricted, and peaceful concession, by treaty, suggested by your committee, and which is demanded in the name of suffering humanity." The committee had before intimated, that the remedy which they recommended to the House of Representatives, presupposed the exercise of the authority of another department of the Government, and that objections to the exercise of this authority, in the mode which they had presumed to suggest, had hitherto existed in that department. Their report closed with a resolution differing in no other respect from that of the preceding session, than that it did not require the concurrence of the Senate, for the reason already suggested.



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The report and resolution were referred to a committee of the whole, and never further considered.

After a delay till the 20th of the succeeding February, a resolution was submitted to the House, which was evidently a part of the same system of measures, for the suppression of the slave trade, which had been begun by the act of the 3d of March, 1819, and followed up by the connected series of reports and resolutions which the committee have reviewed, and which breathe the same spirit.

This resolution, in proposing to make the slave trade piracy, by the consent of mankind, sought to supplant, by a measure of greater rigor, the qualified international exchange of the right of search for the apprehension of the African slave dealer, and the British system of mixed tribunals created for his trial and punishment; a system of which experience and the recent extension of the traffic, which it sought to limit, had disclosed the entire inefficacy.

The United States had already established the true denomination and grade of this offence, by a municipal law. The resolution contemplated, as did the report which accompanied and expounded that law, the extension of its principle, by negotiation, to the code of all nations.

It denounced the authors of this stupendous iniquity, as the enemies of the human race, and armed all men with authority to detect, pursue, arrest, and punish them.

Such a measure, to succeed to its fullest extent, must have a beginning somewhere. Commencing with the consent of any two states, to regard it as binding on themselves only, it would, by the gradual accession of others, enlarge the sphere of its operation, until it embraced, as the resolution contemplated, all the maritime powers of the civilized world.

While it involved of necessity the visit and search of piratical vessels, as *belligerent rights* against the common enemies of man, it avoided all complexity, difficulty, and delay, in the seizure, condemnation, and punishment of the pirate himself. It made no distinction in favor of those pirates who prey upon the property, against those who seize, torture, and kill, or consign to interminable and hereditary slavery, the persons of their enemies.

Your committee are at a loss for the foundation of any such discrimination. It is believed, that the most ancient piracies consisted in converting innocent captives into slaves; and those were not attended with the destruction of one third of their victims, by loathsome confinement and mortal disease.

While the modern, therefore, accords with the ancient denomination of this crime, its punishment is not disproportionate to its guilt. It has robbery and murder for its mere accessories, and moistens one continent with blood and tears, in order to curse another, by slow consuming ruin, physical and moral.

One high consolation attends upon the new remedy for this frightful and prolific evil. If once successful, it will forever remain so, until, being unexerted, its very application will be found in history alone.

Can it be doubted, that, if ever legitimate commerce shall supplant the source of this evil in Africa, and a reliance on other supplies of labor its use elsewhere, a revival of the slave trade will be as impracticable, as a reversion to barbarism?—that, after the lapse of a century from its extinction, except where the consequences of the crime shall survive, the stories of the African slave trade will become as improbable among the unlearned, as the expeditions of the heroes of Homer?

The principle of the law of 1820, making the slave trade a statutory piracy, and of the resolution of the House of Representatives of May, 1823, which sought to render this denunciation of that offence universal, cannot, therefore, be misunderstood.

It was not misconceived by the House of Representatives, when ratified with almost unprecedented unanimity.

An unfounded suggestion has been heard, that the abortive attempt to amend the resolution, indicated that it was not considered as involving the right of search. The opposite conclusion is the more rational, if not, indeed, irresistible; that, having, by the denomination of the crime, provided for the detection, trial, and punishment of the criminal, an amendment, designing to add what was already included in the main proposition, would be superfluous, if not absurd. But no such amendment was rejected. The House of Representatives, very near the constitutional close of the session of 1823, desirous of economizing time, threatened to be consumed by a protracted debate, entertained the *previous question*, while an amendment, the only one offered to the resolution, was depending. The effect of the previous question was to bring on an immediate decision upon the resolution itself, which was adopted by a vote of 131 members to nine.

It is alike untrue, that the resolution was regarded with indifference. The House had been prepared to pass it without debate, by a series of measures, having their origin in 1819, and steadily advancing to maturity.

Before the resolution *did* pass, motions had been submitted to lay it on the table, and to postpone it to a future day. The former was resisted by an ascertained majority of 104 to 25; the latter without a division.

Is the House now ready to retrace its steps?

The Committee believe not. Neither the people of America, nor their representatives, will sully the glory they have earned by their early labor, and steady perseverance, in sustaining by their federal and state governments, the cause of humanity at home and abroad.

The calamity inflicted upon them, by the introduction of slavery, in a form, and to an extent forbidding its hasty alleviation by intemperate zeal, is imputable to a foreign cause, for which the past is responsible to the present age. They will not deny to themselves, and to mankind, a generous co-operation in the only efficient measure of retributive justice, to an insulted and afflicted continent, and to an injured and degraded race.

In the independence of Spanish and Portuguese America, the Committee behold a speedy termination of the few remaining obstacles to the extension of the policy of the resolution of May, 1823.

Brazil cannot intend to resist the voice of the residue of the continent of America: and Portugal, deprived of her great market for slaves, will no longer have a motive to resist the common feelings of Europe. And yet, while, from the Rio de la Plata, to the Amazon, and through the American Archipelago, the importation of slaves covertly continues, if it be not openly countenanced, the impolicy is obvious, of denying to the American shore the protective vigilance of the only adequate check upon this traffic.

Your committee forbear to enter upon an investigation of the particular provisions of a depending negotiation, nor do they consider the message referred to them as inviting any such inquiry.

They will not regard a negotiation to be dissolved, which has approached so near consummation, nor a convention, as absolutely void, which has been executed by one party, and which the United States, having first tendered, should be the last to reject.

## REPORT

*Of the Committee on Roads and Canals, upon the subject of Internal Improvements, accompanied by a bill "concerning Internal Improvements."*  
H. of R. Feb. 6, 1825.

The Committee on Roads and Canals beg leave, therefore, to report a bill "concerning Internal Improve-

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ments." This bill proposes to authorize the President of the United States to borrow, on the best terms he can, any sums of money, not exceeding, in the whole, ten millions of dollars; which sums are to be borrowed at such times as may be necessary for the purposes contained in the second section of the bill, and to be redeemable at the end of — years.

The second section authorizes the Secretary of the Treasury to make subscriptions, on the part of the United States, in such companies for internal improvements, as may be incorporated by the respective states, and as Congress may approve from time to time.

The third section contains a provision, that each state may, under certain restrictions, purchase the stock subscribed in such state, and take a transfer of the same from the Secretary of the Treasury.

The fourth section directs the Secretary of the Treasury, as long as any stock belongs to the United States, to receive the dividends on the same, and to vote for the officers of each company, according to the shares subscribed.

The committee have directed their attention, mainly, to such considerations of the subject as may lead to the actual execution of internal improvements.

The construction of the Federal Government, as a general head, and the existence of many states as separate parts of the whole, create obstacles against the execution of many important works, but none, it is believed, which may not be overcome, and, in a manner, that will be reconcilable to the pretensions of the different governments.

As to the objects of improvements, whether they belong to the General Government or to a state, the execution of them will be, in a degree, beneficial to the whole. An object of improvement may be entirely within a state, and still be of a Federal character, as a road to a fortification. The object may embrace parts of two states, as a bridge over a river, that divides the two states; yet the states may erect the bridge, if Congress gives its consent, otherwise, any agreement or compact between the states will not be binding; in such a case, Congress could either give consent, or cause the bridge to be erected by the United States, if it was necessary to answer any national purpose; or it might be erected by a company incorporated by the two states. If the object of improvement has a wide range, and is to pass through many states, there the General Government can act alone, as in the case of the improvements of the Ohio and Mississippi rivers. These improvements cannot be distinguished from any other of the same importance, that passes through a number of states.

It is unnecessary, at the present, to make any effort to ascertain where the true line on this subject lies, between the General and State Governments; Congress must decide on each case as it arises, and it is believed that there never can be any collision. Congress will never be disposed to act without the co-operation of the states, except in a national work, passing through different states, and where the states through which it passes are not interested in a degree sufficient to induce them to undertake the perfection of the work, or any considerable part of it; such cases, in the opinion of the committee, may be considered as of the first national class, and cannot be included in any general and specific systems; for, although the mountains, streams, and the variety of our climate and soil will not change, still it would be rash to adopt a system designating where roads, canals, and bridges, should be located, ten or twenty years hence; each case must depend on the course of trade, and the circumstances that may exist, at the moment it is to be carried into execution.

The committee, however, are of opinion, that there is a secondary class of cases, on which the General Government and the states can act conjointly by the subscription of stock on the part of the United States, in compa-

nies incorporated in the respective states, for internal improvements.

The plan proposed by the bill, after much reflection, has been deemed to be the most judicious of any that can be devised. It is a plan of encouragement, and in its operation, will not interfere with objects of the first class. It will excite the states to incorporate companies for such objects as will be, in a degree, national, and sufficiently so as to induce Congress to countenance them; it leaves Congress to decide in each case, when presented upon its own circumstances and merits.

Congress, on all occasions, is to act for the good of the whole; and there must be many instances where the public interest of the Union will require larger expenditures in one portion of the country than in another.

States, which have important natural advantages for improvements, will not be willing to yield them to the General Government, although they may stand in need of its aid in the beginning—for instance, Pennsylvania, from her interest and pride, never could be disposed to permit the contemplated canal from the Susquehanna to Pittsburg, to go into any other hands than her own. This plan contains the advantage of receiving aid from the General Government, while it retains to the states the right of purchasing the interest of the United States at pleasure.

Congress can act, in any case, after receiving the necessary information, without waiting for information from other places.

The object of introducing the bill this session, is to lay the subject generally before the public; it is not designed to act on it until the next session of Congress, when its details, if the principles of the bill are sanctioned, can be revised and improved.

The committee cannot conceive how the General Government can aid in the internal improvements of the country, in most cases, with greater propriety than by subscriptions to companies incorporated by the respective states. Congress will have the opinion of the United States' Engineers, who will make the necessary surveys, plans, and estimates; and it will have the opinion of a state in each case, and of intelligent stockholders as to the importance and probable profits of each work; and, finally, Congress will exercise its own judgment on the utility and national character of the work. The prosecution of the works, besides, will be conducted by interested individuals, with less expense and delay than perhaps it could be done by the public.

As Congress will probably make other expenditures in specific cases, from time to time, the sum is here limited to ten millions of dollars; yet, Congress can adopt the principle that no subscription shall be made to any incorporated company, until a certain proportion of the estimated expense shall have been subscribed for, either by the state or individuals; and this may augment the actual expenditures for public improvements to more than double the sum mentioned in the bill. Several of the states have executed many important works, and, with a judicious management from the General Government, a great deal more may be anticipated on their parts.

The aid of the General Government will seldom be required in the construction of roads. The roads which will be necessary for the accommodation of the states, will, in most cases, answer the purposes of the General Government. Attention will, perhaps, have to be paid to parts of leading mail routes where the interest of the states is not sufficient to induce them to keep such parts in good repair. In the late report of the Secretary of War, the extension of the Cumberland road from Wheeling to St. Louis, and the construction of a durable road from the seat of Government to New Orleans, are considered as objects of national importance.

By the report of the Postmaster General, of the 15th December, 1824, it appears that the route on which the mail is carried from the Seat of Government to New

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Orleans, is estimated at 1,380 miles, and requires a travel of 24 days in the winter and spring seasons of the year. The mail on this route is sometimes entirely obstructed by high waters; and, when this is not the case, it is frequently much injured by the mail horses swimming creeks and through swamps, by which newspapers are frequently destroyed, and letters obliterated. In the report, it is further remarked, that the route, by the way of Warrenton, Abington, and Knoxville, affords great facilities for the construction of a mail road. Through Virginia and Tennessee, the materials are abundant for the formation of a Turnpike, and through the states of Alabama and Mississippi, it is believed, from information which has been obtained, that, in no part of the Union, can an artificial road, of the same length, be constructed at less expense. On this part of the route, the face of the country is level, and the soil well adapted for the formation of a solid road. If a substantial road were made in this direction to New Orleans, the mail could be transported to that place from this city, in eleven days. If the road were to pass through the capitals of Virginia, North Carolina, and Georgia, it could be conveyed in less than twelve days. The Department now pays at the rate of \$52 76 a mile for the transportation of the mail three times in each week to New Orleans; when, on a good turnpike road, it could be conveyed in a stage as often, and in less than half the time, at the same expense, with the utmost security, and with a considerable increase to the receipts of the Department.

The committee are of opinion, that it would result to the public benefit to make experiments, in this District, of a rail road, and of a road, constructed on M'Adam's plan, for short distances, and in places where they would be useful, as well as for inspection.

On the subject of the inland navigation of the country, a mass of information is contained in the reports of the Secretary of the Treasury, of the 4th of April, 1808; of the Secretary of War, on the 3d of December, 1824; of the United States' Board of Engineers; and of Canal Commissioners in the States.

It is believed to be practicable, and by no means at an unreasonable expense, compared with the high importance of the subject, to make an inland water communication from Boston to St. Mary's, and to connect the waters of the Atlantic with those of the Gulf of Mexico. In 1808, the Secretary of the Treasury indicated a canal to be opened 550 miles in length, at an expense of \$50,000,000, and ten year's labor; and as great as the expense would be, he thought the advantages of discharging the Mississippi into the Atlantic ocean, through the territory of the state of Georgia, worth it all. But, since the acquisition of Florida, a new route presents itself, to commence on the Mississippi, at the mouth of the river Iberville, and terminate at the mouth of St. John's river, on the coast of Florida. The whole distance is 700 miles; but the distance to be canalised, would not exceed 120 miles, and would save a distance of navigation of 1,500 miles. The cost of this undertaking, from the information received, would be about six millions of dollars.

By virtue of an appropriation, made in March, 1823, the obstruction between the harbor of Gloucester, and the harbor of Squam, in the state of Massachusetts, has been removed. It consisted of a narrow isthmus of sand, which had been thrown into a passage that formerly existed there, and, by the constant action of the waves, in heavy gales of wind, had been filled up for, perhaps, a hundred years, and had completely connected the island of Cape Ann with the main land. By this improvement, which was perfected under the auspices of the General Government, the coasting trade, from all parts of Boston Bay, enjoys the great advantage, in particular seasons of the year, and circumstances of weather, but especially in winter, of passing through, from the harbor of Gloucester,

by Squam, into Ipswich Bay, and thence to Newburyport, Portsmouth, Portland, &c. and are saved the difficulty and risk of doubling Cape Ann.

No improvements of which the country is capable, would conduce more to internal commerce and military defence, than this chain of inland water communication along the Atlantic, and its extension to the Mississippi.

As to commerce, the communication by this canal route, is from North to South about fifteen degrees, and the produce of the South, cotton, rice, tobacco, sugars, and the fruits of the climate, could be taken to the landings and towns, as far as the extreme point of the North, in a short time, and the boats could return with the manufactures of the North and Middle states. This canal route, in its course, would connect itself with all the valuable streams from the Mississippi to the North, and would save from wrecks large amounts of property. It is estimated that, on the Keys and Shoals of the Florida coast alone, 500,000 dollars worth of property is wrecked annually.

As to military defence, these improvements would be equally valuable: as the extent of our coast gives to an enemy possessing a powerful naval force, the advantage of selecting the place of attack; but, by means of such a water conveyance, one army could defend a great distance of the seaboard, as it could be transported to any point in a short period.

With such a line of defence, no discreet General would venture far into the interior of the country, when his retreat would be so easily cut off, and his defeat rendered almost certain.

In the other extreme of the country, the Lakes can be connected with the St. Lawrence and the Mississippi rivers. The falls of Niagara, it is believed, can be avoided by a canal of about ten miles, and on such a scale as to admit vessels which navigate both Lakes; and at an expense not exceeding a million of dollars. Lake Michigan can be connected by a canal with the waters of the Illinois river, which empties into the Mississippi. And to effect this communication, a law was passed in 1820, by Congress, authorizing the state of Illinois to open a canal through the public lands.

Already, steam boats of 450 tons, with full cargoes, have passed from Buffalo to the Southern extremities of Lake Michigan, a distance of 800 or 900 miles. The whole of this navigation is on the Lakes, except the passage through the strait between Lakes Michigan and Huron, of ten miles; the strait between Huron and St. Clair, of thirty-five miles; and the strait between St. Clair and Lake Erie, of twenty-eight miles: making, in the whole, seventy-three miles; but through each of these straits there is sufficient depth of water for sloops and steam boats of the burthen just mentioned. With improvements of no extraordinary magnitude, there can be a water communication from New Orleans to Quebec; and inland navigations from the Atlantic, across to this extensive line, may be effected from various points. In New England, the Penobscot, Kennebec, and Connecticut rivers, approach the waters of the St. Lawrence; and a project is said to be in contemplation to connect the waters of Lake Memphramagog with the Connecticut river, through the Barton and Willoughby rivers, Willoughby Lake and Passamsick river, to the Connecticut river, opposite the town of Lyman, in the state of New Hampshire. It is also expected, that the Government of Canada will undertake to open a water communication for boats, from Memphramagog Lake, through Riv. St. Francois, to Lake St. Peter's, in the river St. Lawrence, and thence to Quebec: And thus, to give an inland water communication from Quebec to Portsmouth, Boston, Hartford, and New York. And it is believed that a direct water communication may be opened from the state of Vermont, through the interior of the state of New Hampshire, to Dover, Portsmouth and Boston Navy Yards, which will facilitate the transportation of

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merchandise into the country, and the produce of the country to a market, together with timber to the Navy Yards. This route would also open a free intercourse with Canada and Quebec, either by water to the St. Lawrence river, or Craig's road to Quebec.

Companies have been incorporated to connect the waters of Connecticut river with the waters of the Merrimack, and to cut a canal from the Winnepisiogee Lake to the Piscataqua river, and from Pemigewasset river, through Squam ponds, to Winnepisiogee Lake. These, when effected, will connect the waters of the Connecticut river with Portsmouth and Boston harbors.

In New York, much has already been done by the energetic measures and sound policy which that state has pursued. The great canal of New York unites the Atlantic with the regions of the Lakes. Still, many other important objects of improvement remain to be effected in the state of New York, as appears in the message of the Governor of that state, lately addressed to the General Assembly.

Another connection may be effected through the states of Jersey and Pennsylvania. A law has been lately passed by the Legislature of the state of New Jersey, to construct a canal from the Raritan to the Delaware. And in Pennsylvania, the river Schuylkill has been converted into a slack water navigation, by canals and dams, from tide water at Philadelphia, to Mount Carbon, near its source, being a distance of one hundred and nine miles. The cost of this work, now finished, was one million eight hundred thousand dollars. Connected with it, is the Union Canal, which branches off at Reading, fifty-two miles above Philadelphia, and intersects the Susquehanna at Middletown, ten miles below Harrisburg. This work, now in rapid progress, and which will be finished in eighteen months, is seventy-eight miles long, and will cost about eleven hundred thousand dollars. Both these canals lead to inexhaustible mines of coal, of the very best quality, and complete the water communication between the Susquehanna and Philadelphia, the distance being about one hundred and fifty miles. The majestic river of Susquehanna is the only one of the Atlantic rivers whose sources approach both the Western waters, and those of the St. Lawrence. Its Tioga branch affords a communication with the rivers Seneca and Genesee, which empty into Lake Ontario, and its Western branch approaches the waters of the Alleghany. The river Susquehanna, it is believed, affords two communications to the Western waters; one by the Western branch, and the other by connecting the Juniata river with the river Conemaugh, which empties into the Alleghany.

The Canal Commissioners of the state of Pennsylvania, who examined this last route, partly in conjunction with two of the United States' Engineers, have lately reported in favor of its practicability.

The next communication with the Western waters can be effected by the Chesapeake and Ohio Canal. This object, regarded as the most important and national, was the first to claim the attention of the Executive in carrying into effect the provisions of the law of the last session, to procure surveys, &c.; and the able board of Engineers, who have given the subject a full and careful examination during the last summer, have pronounced it perfectly practicable, at an expense small compared with the magnitude and importance of the object. This work, whether regarded in a military, commercial, or political point of view, is equally important. Passing through the centre of the Republic, from one extreme to the other, opening an internal communication of more than 2,500 miles; affording at once a powerful bond of Union, with every commercial facility in time of peace—and, in war, the most efficient means of national defence. Besides, its immediate connection with the seat of the *National Government*; its central position; the great extent of inland navigation which it opens; touching, in its course, eleven states of the Union, and

furnishing a vent for the produce of several others. The shortness of the canal, by this route, connecting the Atlantic tides with the steam boat navigation of the West, at Pittsburg, being less than 350, and to Lake Erie, less than 450 miles.

These considerations, together with the general and diffusive nature of the benefits to result from this work, offering great advantages to all the states, yet peculiar to none, as well as the magnitude of the undertaking, point it out as a work peculiarly *national* in its character, and cannot fail to secure for it the prompt and efficient aid of the General Government.

Many of the above remarks will likewise apply to the Pennsylvania Canal, which will pass through a rich and populous country, and connect the greatest manufacturing city on the Western waters with one of the richest and most manufacturing cities on the Atlantic, at a distance of about 370 miles; and will bring New York and Pittsburg nearer together than by any other route—as from New York to Brunswick 40 miles, from there to Philadelphia 60, and from there to Pittsburg 370; making, in the whole, 470 miles, instead of 790 by Lake Erie.

James River, in the state of Virginia, it is believed, can be connected with the Kenhawa, which empties into the Ohio. This will afford that valuable section of the country a water communication to the Lakes through the canal intended to be cut from the Ohio River to Lake Erie; on which subject, the Canal Commissioners, in obedience to an act of the General Assembly of the state of Ohio, have recently written a very able report.

The sources of the Roanoke rise in the mountains of Virginia, and it empties itself into the Albemarle Sound, and is navigable to the Great Falls, seventy miles from its mouth. Around the Great Falls, locks have been made, and the branches of this river have been greatly improved by jetty dams. It is proposed to re-open Roanoke Inlet, or to make a new one near its site, and to close up the communication between Albemarle and Pamlico Sounds, by running a dam of stone or of wood and earth across Cronton and Roanoke Sounds, near the South end of Roanoke Island. The estimated cost of this improvement, if made of stone, is \$2,000,000, and, if made of wood and earth, \$1,000,000. This improvement would diminish the distance from any given port on the Sound nearly one half, and would accommodate the country on both sides of the Sound, and along the rivers emptying into it, which is as fertile a tract of country as any in the Southern states, and sustains as great a population.

The head waters of the Great Pedee River, which falls into the ocean at Wigan Bay, take their rise in the Blue Ridge; and the Yadkin, a bold stream, with only one formidable, but not insurmountable, obstruction, is navigable to the foot of those mountains, in the state of North Carolina. The distance over them to the navigable waters of the Holstein, a branch of the Tennessee, is not great. The head waters of the Santee, which has its outlet in the state of South Carolina, are the Catawba, Broad, and Saluda rivers; the former takes its rise near the mountains in North Carolina, not far from the head waters of the French Broad; the two latter rise within the state of South Carolina; their sources are nearly equally in the vicinity of the French Broad. The navigation of each of these three rivers has been so far improved, as to render them fit for the transportation of produce to within a few miles of the mountains. The Keowee and Sugawtoe rivers, the head waters of the Savannah, which form the boundary of the states of South Carolina and Georgia, have their source in the same chain of mountains, and might be rendered navigable to within a very short distance of the head waters of the French Broad. It is to be observed of all these rivers, that the Blue Ridge presents obstacles to a junction between the Eastern and Western waters, by means of canals.

By a memorial from the Legislature of Alabama to

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Congress, it appears that the Tuscaloosa river, a branch of the Tombeche, may, at a reasonable expense, be connected with the Tennessee river. The memorial also states, that the Alabama river commences and becomes capable of a water transportation within eight or eleven miles of a stream equally susceptible of being rendered navigable, and which empties into the Tennessee river; that the latter receives the tribute of several other streams which take their rise and become navigable in the state of Virginia, passing through some of the most productive lands, and watering, in their course, the whole Eastern Section of the state of Tennessee; that the dividing ground separating these waters affords a favorable opportunity of connecting the waters of the Alabama with those of the Tennessee river; and that the distance for the produce of Tennessee to reach a market on the sea board, would be reduced from nearly two thousand miles, to New Orleans, to six or seven hundred miles, to the Mobile, which may be connected with the Pensacola Bay.

The Cumberland river, in the state of Tennessee, it is believed, can be connected with the Tennessee river, which, when connected with the Tombeche or Alabama rivers, will open a direct water communication to Pensacola, in Florida, for a large and important section of the Union.

Some of the Georgia rivers, it is believed, may be connected with the Western waters.

The cutting of a canal from Lake Pontchartrain, to communicate with the Mississippi, at or near the city of New Orleans, is considered of importance, both in a military and commercial point of view.

Pearl River, in the state of Mississippi, is also a valuable stream, and is capable of much improvement for the public advantage.

Besides the communications, already mentioned, with the Lakes, it is considered as practicable, at a reasonable expense, to connect the Wabash River with the Miami of Lake Erie.

The importance of an early attention to the construction of canals, round the Falls of Ohio, at Louisville, and round the Muscle Shoal, in the Tennessee River, will be readily conceded.

Whenever the contemplated water communication, between Boston and the river Delaware, shall be completed, it will, it is supposed, leave but about thirty-eight miles of land, separated by water sources, to Lewis's River, a branch of the Columbia, which empties into the Pacific ocean; as, from the Talpahockin, a branch of the Schuylkill to the Quitpahilla, a branch of the Susquehanna, four miles; from Poplar Run, a branch of the Juniata, to the Little Conemaugh, a branch of the Alleghany, 14 miles; from the Yellow Stone river, a branch of the Missouri, to Lewis's River, a branch of the Columbia, twenty miles; making, in the whole, thirty-eight miles. But what distance of canalling, and water improvements, would be necessary to complete this chain of communication, the committee possesses no means of ascertaining. Parts of it, no doubt, will be accomplished in a reasonable time; yet there can be no expectation that the whole will be effected for a very long period.

If the survey system, which commenced the last summer, should be persevered in, the Union, and the several States, will be put into the possession of invaluable information on these interesting subjects.

In viewing the prospects before us for improvements on a large scale, the mind is lost in amazement at the extensiveness of the scenes which appear, for the permanent benefit and grandeur of the country.

The inhabitants of the old countries were for a long time confined to the coasts; but the improvements in navigation, gave an unlimited expansion to commercial enterprise, and the discovery of canalling is an admirable extension of the benefits of navigation, by which we can sail over the globe by land, as well as by sea.

The inestimable invention of lock navigation was entirely unknown to the ancients, who have furnished us with so many astonishing monuments of their greatness; it instructed mankind in the knowledge that water was capable of producing the ascent of vessels to its own level, and that, wherever there is water above, vessels can go down and re-ascend by water; but the invention in itself is not much more wonderful than the prejudices against adopting it in practice, which have existed in many countries.

In the construction of the canal of the two seas in France, all the science and art appertaining to the subject were displayed. Locks, 114 in number, were constructed, and rocks excavated for great distances; tunnels were cut through mountains, and a reservoir of 595 acres was filled by waters from the adjacent elevated places, and which were conveyed by aqueducts over rivers and valleys. This canal, although greatly advantageous to the nation at large, would not have been good property for private proprietors; but it was the origin of innumerable canals in France and Holland, which exhibited, in the clearest light, their many and important public and private advantages; but, notwithstanding the enterprising character of the people of England, and although they had the examples of Holland and France so near at hand, still, near a century passed, before either government or inhabitants attempted to make any works of the kind in England. The success of the undertaking of a spirited individual, at length roused the people to enthusiasm, and awakened a general ardor for similar improvements among the landholders, farmers, merchants, and manufacturers of the kingdom. Since then, there has been no cessation in the prosecution of public works, and the capacity of the country has been entirely changed; old manufactures were rendered more flourishing, and new ones were established from time to time, in places where the land before was of but little value and thinly inhabited. The towns were enabled to supply a much greater extent of inland country with their own manufactures. The consumers, in the interior of the country, imported at lower prices, and, as producers, they exported with greater advantages.

The canals united the materials for manufactures that lay dispersed, and, by lessening the expense of the transportation of bulky articles, they brought stores of riches from the bowels of the earth. They afforded to the inhabitants of the interior, in every direction, the advantages of coasts which were safe from tempests and wars. England could never have sustained herself in her mighty struggles with the continent, had it not been for her unremitting attention to the domestic industry of the country; and nothing gave as much facility and animation to this industry, as her cheap, safe, and expeditious modes of transportation. Prejudices, even as to the practicability of executing great designs, existed in England for a long time; and, when the Duke of Bridgewater's canal was finished as far as Barton, where the Irwell is navigable for large vessels, Brindley, the engineer, proposed to carry it over that river by aqueducts, the idea was ridiculed, and another eminent engineer was consulted, who replied, at once, that he had often heard of castles in the air, but that he had never been shown before, where any of them were to be built. The Duke, however, took the advice of his own engineer, and the work was commenced in September, 1760, and boats sailed over it in less than a year, to the astonishment of those, who, a little before, thought it impossible. The New York works had to encounter prejudices of every description; some entertained opinions that the whole scheme was romantic in the extreme; that it was totally impracticable; and, if practicable, that it was far beyond any conception they had of the ability of the state to carry it into execution. A short period has, however, dispelled all such apprehensions; and it may be reasonably hoped that these works will produce similar effects in



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America to those which the Bridgewater works did in England, and be the origin of a thousand water communications in different parts of the Union. The construction of canals is now reduced to strict rules and methods, and can be contracted for at so much per mile or lock. Although our minds are now free from the mist of ignorance and prejudices, still important difficulties, but, it is trusted, not insuperable ones, remain, as to the course which the United States ought to pursue on the highly interesting subject of internal improvements. If we do not cherish a spirit of concession, and act with liberal views, for the general benefit, as to the places where public works are first to be undertaken, success can scarcely be expected. Whether Congress will pledge its faith in advance, on any plan, or act merely in specific cases, as they arise, or upon a combination of both, according to the design of the annexed bill, or upon the principle of an equal proportionment among the states, according to the ratio of representation, are grave and important questions; and can only be settled by the experience and wisdom of Congress, after solemn deliberation; but, when these important points are disposed of, there will remain nothing to impede the national councils from conferring on their constituents the greatest blessings, and acquiring for themselves imperishable renown. Ultimately, these works may be looked upon as the best source of revenue, and at all times they will effect a great saving in the labor and expense of transportation, which will be diverted to some other employment, and thus increase the wealth of the whole. In a time of war, they would facilitate, beyond description, both in cheapness and expedition, the transportation of troops and heavy munitions of war, from the sea board to the Canada borders, or in the direction of any other point in the Union where we could be assailed.

No opinion can be formed, with accuracy, as to the expense of land-carriage, throughout the Union. It is, however, estimated, that 30,000 tons are annually transported over the mountains to Pittsburg, at the extraordinary expense, for wagonage, of \$600,000 a year, and this mode of transportation, besides, employs a large capital in wagons, horses, feed, and attendants. A few facts will show the enormous expense of transportation in times of war. In the late war, flour, in some instances, cost the government near one hundred dollars per barrel, and pieces of artillery, each, near one thousand dollars, and, owing to the delay, were useless, when they arrived.

The cost of transportation across the peninsula between the Delaware and the Chesapeake Bays, a distance of only sixteen miles, amounted, in one year, to a little less than half a million of dollars. The losses in the last war, for want of good roads and canals, were very large, and, it is believed, they would be sufficient to accomplish many of the important improvements which are contemplated.

It may here be truly observed, that, among the objects of a national character, which occasionally engage the public spirit and resources of a nation, none are more beneficial and none so permanent as the internal improvements of the country. These will remain as lasting as the rivers they connect, while others will be effaced even from remembrance by the flow of time.

As to the means possessed by the General Government to perfect the contemplated improvements of the country, they are abundant. Beyond the sums to be borrowed by the annexed bill, the redundancy in the Treasury in each year, will meet specific cases of improvements of the first class, which may be presented at different periods. And if proper objects are selected in the beginning, a revenue will constantly be coming into the Treasury, as the improvements are progressing; some canals, it is probable, would yield more than six per cent. soon after their completion. The Secretary of the Treasury says we shall have an annual surplus of upwards of three millions, beyond the sinking fund,

which will pay the public debt in ten years. This may not all be realised, but it is probable that the surplus will even exceed this estimate. The public debt will be diminishing, and there will be less interest to pay; the appropriations for fortifications will not be as large as they have been; the pension fund has diminished more than one half in the last three or four years, and must entirely cease in a short time—from this source alone, upwards of a million will be disengaged; the customs will increase with the growing population of the country; and the Government, besides, owns about 500 millions of acres of land, the value of many parts of which will be enhanced by the improvements of the country.

But we will suppose the case which is the most favorable; and that is, that the debt, together with the improvements, should go down to posterity, it would only create an obligation on those who would have the enjoyment of the improvements, to pay the debt. Would posterity have any cause of complaint, when so much labor would be performed to their hands? They would not murmur; they would rather bless the authors of their benefaction.

As to means, on questions of improvements, ability is the only requisite, if the works, when they are completed, will be worth what they cost; the want of money in the Treasury should never form an objection to their execution. In such cases, it is only necessary to inquire, whether we have a sufficiency of credit, labor, and skill; these constitute the means; and on this enlightened policy, the great improvements in the state of New York have been made.

The importance of placing this country in the most advantageous condition, to enable it to enter into competition with the countries of Europe in the trade with the Republics of South America, must be obvious to every enlightened statesman.

The discovery of a passage round the Cape of Good Hope to the East Indies, was an important era in the history of Europe; and it may be assumed that the independence of South America is not less so to this country. No country can offer to us commercial openings more rich, or more within our reach, than the Spanish Republics. Our territories touch. The ports of Louisiana and Vera Cruz are connected with the same sea.—Our access to Mexico will be easy. As regards the importance of Mexico, it is illustrated by the circumstance, that it is the richest and most extensive of all the Spanish possessions; it exceeds in magnitude, Spain, France, and Italy united. All the eastern coast of Mexico, the Kingdom of Terra Firma and Paraguay, are nearer to us than the ports of Europe; here is a wide field opening for the commercial enterprise of the Americans. It would be presumptuous to attempt to point out the particular character of the trade, in all its branches; but that two great countries, geographically situated as these are, can remain without an immensity of commercial intercourse, is incredible. Nothing can be more intimately connected than the interest of commerce, and that of the cultivators of the land; and the manufacturing interest naturally follows as a benefit to both.

We can get nothing from abroad, if we have not something at home, to exchange for it; and this something must come from the earth or the sea, but mainly from the land.

The objects of commerce will not grow in the streets or along the margin of the sea; they are to be obtained in the interior of the country, or from manufacturing places. The navigation of the country depends on the interior prosperity of the country, and must rise or fall with it. Navigation follows, it cannot lead; and the more the objects of commerce are increased, the more ships will be wanted.

The raw materials, and the various productions of the soil, in the first instance, belong to the cultivators of the land; and the trade of the country belongs to the people

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at large. Its object is to carry to foreign countries, what we have to spare, and to bring back what is necessary or gratifying to us. And this commerce of the country will inevitably and daily increase with the improvement of the country.

The grand secret in the whole order of society, in its relation to political economy, is nothing more than to hold out such inducements as are the best calculated to make the people industrious, and to aid this industry as much as possible by labor-saving machines. A nation in all its wisdom cannot effect this end so well by any contrivance as by the simple operation of safe and cheap modes of transportation by good roads and canals. Suppose two nations to be adjacent; the one intersected with canals, and the other only accommodated with ordinary roads; how much more powerful and rich will the one be than the other!

The age of a nation does not depend on time, but on its strength, population, and character. And a nation possessing, as we do, ten millions of people, cannot seriously be destitute of means to accomplish all the important works, which, on the most ample information, and best deliberation that can be bestowed on the subject, shall appear to be of essential advantage to the different parts of the country. The General Government can adopt no other measure which will produce so much animation and friendship among her citizens. It will render access easy, by subduing the mountains and the floods: and must, by the intercourse and interest which it will create in the different parts, have a powerful tendency to the preservation of the whole.

A society of people delights in noble achievements; and it would have been happy for the world, if the power of nations had been directed to the establishment of important public improvements instead of exhausting itself in the despicable intrigues of statesmen, and the destruction of the human species. Immense sums have been lavished for military glory, while projects which would tend to cherish industry and morality have not been sufficiently cultivated.

An abhorrence of many of the arbitrary and bloody scenes in other countries, has given rise in the western hemisphere to self government and toleration in religion, and the example of the U. States may produce an influence on the rest of the world, when she is known to be inclined to reconcile national differences, rather than to instigate wars; and is seen preserving a steady devotion to the happiness of the people, and constantly directing a portion of their resources to such public undertakings as will advance the population and general wealth; and go down to posterity as the best evidence of sincerity for the permanent prosperity of the country. We can never expect to see a more propitious period than the present, to commence the internal improvements of the country, on a scale worthy of the importance of the subject; the prospect of a long peace lies before us; and there seems to be nothing else of high interest to engage the councils of the Union for these many years.

Annexed is a letter dated February 24, 1825, and a short statement concerning canals.

February 24, 1825.

SIR: Allow me to submit to your consideration a plan to connect the Mississippi with the Atlantic, by an internal communication extending along the Northern margin of the Gulf of Mexico. The importance of this communication, both in a commercial and military point of view, must long since have attracted the attention of yourself, and of the committee of which you are chairman, and I shall be happy if my suggestions on the subject should contribute, in the smallest degree, to its accomplishment.

The route I propose, is intended to commence on the Mississippi, at the mouth of the river Iberville, and terminate

at the mouth of the river St. John's, on the coast of Florida. The Iberville is about thirty miles in length, and already forms a communication between the Mississippi and the Amit, a navigable and tributary stream of Lake Pontchartrain.

The Mississippi being elevated many feet above the level of the Lake, it is believed that, in order to render the Iberville perfectly navigable, little more will be required than to remove the obstructions which have been thrown into it, and encourage the Mississippi to discharge a part of its waters through this channel. From the junction of the Iberville with the Amit, there is a safe and convenient inland navigation to the head of the bay of Bonsecur, an arm of the Bay of Mobile. A canal five miles in length, will connect the navigable waters of Bonsecur with those of the Perdido, and a canal one half mile in length, will connect the Perdido with the Grand Lagoon, which communicates with the bay of Pensacola, making the whole distance to be opened between the Mississippi and Pensacola thirty-five and a half miles, thirty of which will be through a natural channel, and may be completed with inconsiderable expense and labor. From Pensacola eastward, there is a safe inland navigation through the Sound of St. Rosa and the bay of Choctawhatchy. A canal five miles in length will connect the latter with the bay of St. Andrew's. A canal of forty-five yards will connect the St. Andrew's with the bay of St. Joseph's, and a canal of equal length will connect the latter with the Lake Wimeco. This Lake communicates with the river Apalachicola; from thence to the Bay of St. Mark's, the navigation is already open, and secure, being perfectly protected from the waves of the Gulf, by a chain of islands extending along the coast. Pensacola is distant from St. Mark's about 200 miles, and a canal of little more than five miles will open an inland navigation between them. To extend this chain of connection from St. Mark's to the Suwannee river, would be attended with the only difficulty in the whole route, and would require a canal of about sixty miles. This, however, might be dispensed with, until the communication across the Peninsula shall have been completed. This may be effected by uniting the waters of the St. John's, with those of the river Suwannee, and will require a canal of not more than twenty miles in length. The river St. John's is one of the finest streams of our country; it waters one of the most delightful regions of the South, and is navigable for vessels of 300 tons burden, for more than 200 miles above its mouth. The two points intended to be connected by this route, are separated from each other by a distance of about 800 miles, near 700 of which are already navigable; and when completed, will be nearer, by 1000 miles, than the present circuitous and dangerous route through the channel of the Mississippi, and the Gulf Stream. I need not dwell on the importance of this communication, or on the advantages which would result from its completion; they must be apparent to all who have formed a just conception of the danger, the delay, and difficulty, attendant on the navigation among the keys and shoals of Florida, when the annual loss of property by wrecks, is estimated at \$500,000—a sum nearly sufficient to complete the contemplated route.

I have the honor to be,

Most respectfully, your obed. servant,

R. K. CALL.

MR. HEMPHILL,

Chairman of the Committee on Roads and Canals.

Thirty canals in England yield, on an average, 30 per cent. per annum, and the stock has increased in value, in some instances, 600 per cent.

Twenty-two canals cross the mountains which separate the waters of the East and West in England.

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*Resolutions of Indiana in relation to Lafayette.*

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### RESOLUTION

*Of the General Assembly of the State of Indiana, in reference to General Lafayette.—February 15, 1825.*

The Committee, to whom was referred a Joint Resolution of the General Assembly, directing them to take into consideration the propriety of the General Assembly's expressing their sentiments in reference to General Lafayette, respectfully report the following preamble and resolutions:

The Senate and House of Representatives of the State of Indiana, in General Assembly convened, would be deficient in respect to the feelings of their constituents, and unmindful of their obligations to a distinguished benefactor, did they fail to join the paean of National gratitude, and unanimous welcome to Major General Lafayette, on the occasion of his late arrival in the United States. It is scarcely necessary for them to say, that they unanimously accord with the sentiments expressed towards their illustrious friend, by the Chief Magistrate of the Union, and cordially add their sanction to the provision in his favor recently enacted by Congress. The latter, they view as the smallest return for his pre-eminent services and sacrifices the American People could make, or the National Guest receive. It is the dignity of a spectacle, unparalleled in the history of man, which they peculiarly feel and admire.

Ten millions of hearts, spontaneously offering the homage of their gratitude to a private individual, unsupported by rank or power, for services long past, of the purest and most exalted character; whilst they furnish consoling evidence that Republics are not ungrateful, also carry with them the delightful conviction that the sons of America have not degenerated from their fathers of the Revolution.

In pausing to contemplate, with appropriate feelings, this sublime example of popular gratitude, united with reverence for character and principles, the General Assembly learn, with peculiar satisfaction, that it is the intention of General Lafayette to visit the western section of the United States. The felicity denied, by a mysterious Providence, to the father of his country, has, it is hoped, been reserved for his adopted son. What the immortal Washington was permitted to see only through the dark vista of futurity, will be realized in the fullness of vision, by his associate in arms and glory.

The General Assembly hail, with inexpressible pleasure, the prospect of this auspicious visit. They cannot, they are aware, receive their Benefactor in the costly abodes of magnificence and taste, nor vie with their sister states, in the embellishments of a hospitality more brilliant than it is theirs to offer, but not more sincere.

But they can, and do, in common with the whole American people, welcome him to a home in their

hearts. They feel persuaded that he will take a deep interest in this part of our country, which, though not the actual theatre of his generous labor, has emphatically grown out of the glorious results of his Revolutionary services. On the west of the Alleghany Mountains, our illustrious guest will behold extensive communities of freemen, which, within the period of his own recollection, have been substituted for a trackless wilderness, where forty years ago primeval barbarism held undisputed sway over man and nature, civilization, liberty, and law, wield the mild sceptre of equal rights. It is here that our illustrious friend will find his name, his services, and, we trust, his principles, flourishing in perennial verdure. Here, too, may he enjoy the exulting prospects of seeing them, in the language of a favorite son of the West, "transmitted, with unabated vigor, down the tide of time to the countless millions of posterity."

In accordance with the preceding sentiments, the General Assembly adopt the following resolutions:

*Resolved*, That this General Assembly, in common with their fellow citizens of this state and union, entertain the highest admiration for the character, and the most heart-felt gratitude for the services of Major General Lafayette, and most cordially approve of every testimonial of kindness and affection he has received from the People and Government of the United States.

*Resolved*, That, in the opinion of this General Assembly, it would afford the highest gratification to the citizens of Indiana, to receive a visit from their revered and beloved benefactor, the only surviving General of the American Revolution, and that the Governor of this state be requested, without delay, to transmit to General Lafayette, this and the preceding resolution and preamble, accompanied by an invitation to visit this state at the seat of Government, or such town on the Ohio river, as the General may designate.

*Resolved*, That the Governor of this state, together with such officers and citizens as may find it convenient, attend at the point selected by General Lafayette, to receive him with the honor due to the illustrious guest of the state and nation, and that the Governor draw on the contingent fund for the payment of all expenses incurred in executing these resolutions.

*Resolved*, That the Governor be requested to transmit a copy of the foregoing preamble and resolutions to the President of the United States, and to each of our Senators and Representatives in Congress.

S. C. STEVENS,

*Speaker of the House of Representatives.*

JAMES B. RAY,

*President of the Senate, pro tem.*

Approved, 28th January, 1825.

WILLIAM HENDRICKS.

# ACTS OF THE EIGHTEENTH CONGRESS

OF THE

## UNITED STATES:

PASSED AT THE SECOND SESSION, WHICH WAS BEGUN AND HELD AT THE CITY OF WASHINGTON, IN THE DISTRICT OF COLUMBIA, ON MONDAY, THE SIXTH DAY OF DECEMBER, ONE THOUSAND EIGHT HUNDRED AND TWENTY-FOUR, AND ENDED ON THE THIRD OF MARCH, EIGHTEEN HUNDRED AND TWENTY-FIVE.

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*AN ACT making a partial appropriation for the year one thousand eight hundred and twenty-four [five.]*

*Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled,* That the sum of two hundred and sixty-five thousand dollars be, and the same is hereby appropriated, for the compensation granted by law to the Senate and House of Representatives, and to the Officers and Clerks, and Servants of both Houses of Congress, and for defraying the contingent expenses thereof; and that the same be paid out of any money in the Treasury, not otherwise appropriated.

Approved, December 15, 1824.

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*AN ACT concerning General Lafayette.*

*Be it enacted, &c.* That, in consideration of the services and sacrifices of General Lafayette, in the War of the Revolution, the Secretary of the Treasury be, and he is hereby authorized to pay to him the sum of two hundred thousand dollars, out of any money in the Treasury, not otherwise appropriated.

Sec. 2. *And be it further enacted,* That there be granted to the said General Lafayette and his heirs, one township of land; to be laid out, and located, under the authority of the President, on any of the unappropriated lands of the United States.

Approved, December 28, 1824.

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*AN ACT to authorize the Legislature of the state of Ohio to sell and convey certain tracts of land granted to said state for the use of the People thereof.*

*Be it enacted, &c.* That the Legislature of the state of Ohio, shall be, and is hereby, authorized and empowered to cause to be sold and conveyed, in such manner, and on such terms and conditions, as said Legislature shall, by law, direct, the following tracts of land, heretofore granted to said state for the use of the people thereof, to wit: so much of the Six Mile Reservation, including the Salt Springs, commonly called the Sciota Salt Springs, as remains unsold; the Salt Springs near the Muskingum River, and in the Military Tract, with the sections of land which include the same; the proceeds thereof to be applied to such literary purposes as said Legislature may hereafter direct, and to no other use, intent, or purpose, whatsoever.

Approved, December 28, 1824.

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*AN ACT authorizing repayment for land erroneously sold by the United States.*

*Be it enacted, &c.* That every person, or the legal representative of every person, who is, or may be, a purchaser of a tract of land from the United States, the purchase whereof is, or may be, void, by reason of a prior sale thereof by the United States, or by the confirmation, or other legal establishment of a prior British, French, or Spanish grant thereof, or for want of title thereto in the United States, from any other cause whatsoever, shall be entitled to repayment of any sum or sums of money, paid for, or on account of, such tract of land, on making proof, to the satisfaction of the Secretary of the Treasury, that the same was erroneously sold, in manner aforesaid, by the United States, who is hereby authorized and required to repay such sum or sums of money, paid as aforesaid.

Approved, January 12, 1825.

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*AN ACT authorizing the Secretary of the Treasury to adopt a new Hydrometer for ascertaining the proof of liquors.*

*Be it enacted, &c.* That the Secretary of the Treasury be, and he is hereby, authorized, under the direction of the President of the United States, to adopt and substitute such Hydrometer as he may deem best calculated to promote the public interest, in lieu of that now prescribed by law, for the purpose of ascertaining the proof of liquors; and that, after such adoption and substitution, the duties imposed by law upon distilled spirits shall be levied, collected, and paid, according to the proof ascertained by any Hydrometer so substituted and adopted.

Approved, January 12, 1825.

18th CONGRESS, {  
2d SESSION. }

*Laws of the United States.*

*AN ACT authorizing the issuing of Letters Patent to Adolphus G. Trott.*

*Be it enacted, &c.* That the Secretary of State be, and he is hereby, authorized and required to issue Letters Patent, in the usual form, to Adolphus G. Trott, for his invention of a new and useful dye, for the coloring of cloths, upon his complying with all the provisions of the several acts of Congress, relative to the issuing of letters patent for inventions and improvements, except so far as the said acts require, on the part of aliens, a residence of two years.

Approved, February 5, 1825.

*AN ACT in addition to an act, entitled "An act to amend the Ordinance and Acts of Congress, for the Government of the Territory of Michigan," and for other purposes.*

*Be it enacted, &c.* That the Governor and Legislative Council of the Territory of Michigan be, and they are hereby, authorized to divide the said Territory into townships, and incorporate the same, or any part thereof, to grant, define, and regulate, the privileges thereof; and to provide by law for the election of all such township and corporation officers, as may be designated within the same.

Sec. 2. *And be it further enacted,* That all county officers within said Territory shall be hereafter elected by the qualified electors residing in each county, at such time and place, and in such manner, as the said Governor and Legislative Council may from time to time direct: *Provided,* That nothing in this section contained shall authorize the electors aforesaid to elect any Judge of any Court of Record, or Clerk thereof, or any Sheriff, or Judge of Probate, or Justice of the Peace. And that so much of the ordinance of Congress, passed July the thirteenth, seventeen hundred and eighty-seven, and of the laws of the United States, as are inconsistent with the provisions of this section, and as regard the Michigan Territory, be, and the same are hereby repealed.

Sec. 3. *And be it further enacted,* That the Governor of the said Territory shall nominate, and, by and with the advice and consent of the said Legislative Council, shall appoint, all other civil officers in said Territory, except such as are appointed by the President of the United States, by and with the advice and consent of the Senate of the same. And the Governor of said Territory shall have power to fill all vacancies in the offices required to be nominated by him, which may happen during the recess of said Legislative Council, by granting commissions, which shall expire at the end of their next session.

Sec. 4. *And be it further enacted,* That the qualified electors of said Territory shall, at their next and every subsequent election for members of their Legislative Council, choose, by ballot, eight persons, having the qualifications of electors, in addition to the number now by law authorized; and the names of the twenty-six persons, so elected, shall be transmitted by the Governor of said Territory, to the President of the United States, immediately after said election, who shall nominate, and, by and with the advice and consent of the Senate of the United States, appoint, therefrom, thirteen persons; which said thirteen persons shall compose the Legislative Council, any nine of whom shall form a quorum to transact business: and all vacancies occurring in said Council shall be filled in the same manner, from the list transmitted as aforesaid, the members of the said Legislative Council shall receive three dollars each per day, during their attendance at the sessions thereof, and three dollars for every twenty miles in going to, and returning therefrom, in full compensation for their services which shall be paid by the United States.

Sec. 5. *And be it further enacted,* That appeals and writs of error shall lie, from the decision of the highest Judicial Tribunal of said Territory, to the Supreme Court of the United States, in the same manner and under the same regulations as do lie and are taken from the Circuit Courts of the United States, where the amount in controversy shall exceed one thousand dollars, which shall be ascertained by evidence satisfactory to the Court allowing the appeal.

Sec. 6. *And be it further enacted,* That not less than two Judges of the Supreme or Superior Court of said Territory shall hereafter hold a Court to transact the business of said Court.

Sec. 7. *And be it further enacted,* That so much of any ordinance or law of the United States as contravenes the provisions of this act, so far as respects the Territory of Michigan, be, and the same is hereby, repealed.

Approved, February 5th, 1825.

*AN ACT confirming certain claims to lands in the Western District of Louisiana.*

*Be it enacted, &c.* That all the claims to land embraced in the report made by the Commissioners appointed for adjusting the titles and claims to land in the Western District of Louisiana, upon the thirtieth day of December, eighteen hundred and fifteen, and recommended by them for confirmation, be, and the same are hereby confirmed: *Provided,* That no person or persons shall be entitled, by any one claim, to a greater quantity than one league square under this act.

Approved, February 5, 1825.

*AN ACT making compensation to the persons appointed by the Electors to deliver the votes for President and Vice President.*

*Be it enacted, &c.* That the person appointed by the Electors to deliver to the President of the Senate a list of the votes for President and Vice President, shall be allowed, on delivery of said list, twenty-five cents for every mile of the estimated distance, by the most usual route, from the place of meeting of the Electors, to the seat of Government of the United States, going and returning.

Sec. 2. *And be it further enacted,* That this act shall take effect from the first day of November, eighteen hundred and twenty-four.

Approved, February 11, 1825.



18th CONGRESS, }  
2d SESSION. }

*Laws of the United States.*

*AN ACT to remit the duties on books, maps, and charts, imported for the use of the Library of Congress.*

*Be it enacted, &c.* That the Secretary of the Treasury be, and he hereby is, directed to remit all duties upon such books, maps, and charts, as have been, during the present year, or hereafter may be, imported into the United States, by the authority of the Joint Library Committee of Congress, for the use of the Library of Congress.

Approved, February 11, 1825.

*AN ACT making appropriations for the Military Service of the United States, for the year one thousand eight hundred and twenty-five.*

*Be it enacted, &c.* That the following sums be, and the same are hereby, respectively, appropriated for the military service of the United States, for the year one thousand eight hundred and twenty-five, to wit: For pay of the army, and subsistence of officers, including the Military Academy, nine hundred and ninety-four thousand four hundred and seven dollars and seventy-five cents.

For subsistence, in addition to an unexpended balance on the first of January one thousand eight hundred and twenty-five, of twenty-nine thousand one hundred and eighty-eight dollars and forty-five cents, two hundred and sixty thousand four hundred and twenty-nine dollars and fifty-five cents.

For forage for officers, thirty-five thousand five hundred and twenty dollars.

For the recruiting service, in addition to an unexpended balance on the first January, one thousand eight hundred and twenty-five, of one thousand dollars, twenty-three thousand five hundred dollars.

For the contingent expenses of the recruiting service, in addition to an unexpended balance on the first January, one thousand eight hundred and twenty-five, of eight thousand five hundred dollars, three thousand seven hundred and fifty dollars.

For the Purchasing Department, two hundred and four thousand five hundred and forty nine dollars and eighty-six cents.

For the purchase of woollens, during the year one thousand eight hundred and twenty-five, in advance for the year one thousand eight hundred and twenty-six, twenty thousand dollars.

For the expense of building a brick wall round the arsenal lot, on Schuylkill, and repairs of public buildings thereon, eight thousand dollars.

For Medical and Hospital Department, in addition to amount on hand, on first of January, one thousand eight hundred and twenty-five, of thirteen thousand dollars, twenty thousand dollars.

For Quarter Master General's Department, two hundred and eighty-four thousand nine hundred and seventy-three dollars and seventy-five cents.

For Quartermaster's supplies, transportation, mathematical instruments, books, and stationery, for the Military Academy at West Point, eleven thousand five hundred dollars.

For the contingencies of the army, ten thousand dollars.

For the National Armories, three hundred and sixty thousand dollars.

For the current expenses of the Ordnance Service, forty thousand seven hundred dollars.

For Arsenals, forty-four thousand six hundred dollars.

For the pensions of the Revolutionary Pensioners of the United States, one million two hundred and forty-eight thousand four hundred and fifty-two dollars and twenty-six cents.

For the half-pay pensions to widows and orphans, twenty thousand dollars.

For making surveys, and carrying on the operations of the Board of Engineers, in relation to Internal Improvements, and in addition to an unexpended balance on hand, twenty-eight thousand five hundred and sixty-seven dollars.

For paying certain states the amount due on account of Militia in the service of the United States, during the late war, ninety-two thousand five hundred and thirty-five dollars and seventy-seven cents, being an amount heretofore appropriated, and which has passed to the surplus fund.

Sec. 2. *And be it further enacted,* That the several sums hereby appropriated shall be paid out of any money in the Treasury, not otherwise appropriated: *Provided, however,* That no money appropriated by this act, shall be paid to any person for his compensation, who is in arrears to the United States, until such persons shall have accounted for, and paid into the Treasury, all sums for which he may be liable: *Provided, also,* That nothing in this section contained shall be construed to extend to balances arising solely from the depreciation of Treasury notes received by such persons to be expended in the public service; but, in all cases where the pay or salary of any person is withheld, in pursuance of this act, it shall be the duty of the accounting officer, if demanded by the party, his agent or attorney, to report forthwith to the agent of the Treasury Department the balance due; and it shall be the duty of the said agent, within sixty days thereafter, to order suit to be commenced against such delinquent and his sureties.

Approved, February 21, 1825.

*AN ACT making appropriations for the support of the Navy of the United States for the year one thousand eight hundred and twenty-five.*

*Be it enacted, &c.* That, for defraying the expenses of the navy, for the year one thousand eight hundred and twenty five, the following sums be, and the same are hereby, respectively, appropriated:

For the pay and subsistence of the officers, and pay of the seamen, other than those at navy yards, shore stations, and in ordinary, seven hundred and eighty-three thousand five hundred and fifty-four dollars and thirty-seven cents.

For the pay and subsistence of officers, and others at navy yards, shore stations, and in ordinary, two hundred and seventy-nine thousand three hundred and sixty-four dollars and seventy-three cents.

For provisions, three hundred and fifty-five thousand eight hundred and seventy-five dollars.

For repairs of vessels, and for wear and tear of vessels in commission, four hundred and fifty thousand dollars.

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For improvement and repairs of Navy yards, one hundred and sixty-five thousand dollars, viz. at Portsmouth, in New Hampshire, three thousand dollars; at Charlestown, in Massachusetts, twenty thousand dollars; at New York, sixty thousand dollars; at Philadelphia, twelve thousand dollars; at Washington, forty thousand dollars; at Norfolk, including the purchase of a tract of land for the extension and security of the navy yard at that place, thirty thousand dollars.

For ordnance, and ordnance stores, thirty-five thousand dollars.

For medicines and hospital stores, thirty-five thousand dollars.

For defraying the expenses which may accrue during the year one thousand eight hundred and twenty-five, for the following purposes: For freight and transportation of materials and stores of every description; for wharfage and dockage; for storage and rent; for travelling expenses of officers and transportation of seamen; for house rent or chamber money; for fuel and candles to officers, other than those attached to navy yards and shore stations; for commissions, clerk hire, office rent, stationery and fuel, to navy agents; for premiums and incidental expenses of recruiting, for expenses of pursuing deserters: for compensation to Judge Advocates; for per diem allowance to persons attending courts martial and courts of inquiry, and to officers engaged in extra service beyond the limits of their stations; for expenses of persons in sick quarters; for burying deceased persons belonging to the navy; for printing and for stationery of every description; for books, charts, nautical and mathematical instruments, chronometers, models and drawings; for purchase and repairs of steam and fire engines and machinery; for purchase and maintenance of oxen and horses, and for carts, wheels, and workmen's tools, of every description; for postage of letters on the public service; for pilotage; for cabin furniture for vessels in commission; for taxes on navy yards and public property; for assistance rendered to public vessels in distress; for incidental labor at navy yards, not applicable to any other appropriation: for coals and other fuel for forges, foundries, steam engines, and for candles, oil, and fuel, for vessels in commission and in ordinary, and for no other object or purpose whatever, two hundred thousand dollars.

For contingent expenses, for objects arising in the current year, and not hereinbefore enumerated, five thousand dollars.

For pay and subsistence of the Marine corps, one hundred and eighty-nine thousand eight hundred and sixty dollars and fifty cents.

For clothing for the same, twenty-eight thousand seven hundred and sixty-five dollars.

For fuel for the same, six thousand dollars.

For medicines, hospital stores, and instruments for the officers and marines stationed on shore, two thousand three hundred and sixty-nine dollars and seventy-one cents.

For contingent expenses, that is to say, fuel for commissioned officers, transportation, stationery, bed sacks, straw, extra rations to officers, and postage on public letters, fourteen thousand dollars.

For arrearages of contingent expenses for the years one thousand eight hundred and twenty-three and twenty-four, five thousand dollars.

Sec. 2. *And be it further enacted*, That the several sums hereby appropriated shall be paid out of any money in the Treasury, not otherwise appropriated: *Provided, however*, That no money appropriated by this act, shall be paid to any person for his compensation, who is in arrears to the United States, until such person shall have accounted for, and paid into the Treasury, all sums for which he may be liable: *Provided, also*, That nothing in this section contained shall be construed to extend to balances arising solely from the depreciation of Treasury notes received by such person to be expended in the public service; but, in all cases where the pay or salary of any person is withheld, in pursuance of this act, it shall be the duty of the accounting officer, if demanded by the party, his agent, or attorney, to report forthwith to the agent of the Treasury Department the balance due; and it shall be the duty of the said agent, within sixty days thereafter, to order suit to be commenced against such delinquent and his sureties.

Approved—February 21, 1825.

*AN ACT making appropriations for the Support of Government, for the year eighteen hundred and twenty-five.*

*Be it enacted, &c.* That the following sums be, and the same are hereby, respectively, appropriated for the service of the year one thousand eight hundred and twenty-five; that is to say:

For compensation to the Senators and Members of the House of Representatives, their officers and clerks, in addition to the sum of two hundred and sixty-five thousand dollars, appropriated by the act of the fifteenth day of December last, sixty-four thousand eight hundred and sixty-eight dollars.

For expenses of Fuel, Stationery, Printing, and all other incidental and contingent expenses of both Houses of Congress, sixty-five thousand dollars.

For the expenses of the Library of Congress, including the salary of the Librarian, one thousand nine hundred and fifty dollars.

For compensation to the President of the United States, twenty-five thousand dollars.

For compensation to the Vice President of the United States, five thousand dollars.

For compensation to the Secretary of State, six thousand dollars.

For compensation to the Clerks in the Department of State, per act of the twentieth of April, one thousand eight hundred and eighteen, fifteen thousand nine hundred dollars.

For compensation to the Messengers in said Department, including the Messenger in the Patent Office, one thousand four hundred and fifty dollars.

For compensation to one Mechanist, per act of twenty-sixth of May, one thousand eight hundred and twenty-four, seven hundred dollars.

For the incidental and contingent expenses of the Department of State, including the expenses of printing the laws, and for extra copying of papers, twenty-five thousand five hundred and fifty dollars.

For compensation to the Secretary of the Treasury, six thousand dollars.

For compensation to the Clerks in the Office of the Secretary of the Treasury, per act of twentieth of April, one thousand eight hundred and eighteen, including four hundred dollars short, appropriated for one thousand eight hundred and twenty-four, ten thousand eight hundred dollars.

For compensation of one Clerk, per act of twenty-sixth of May, one thousand eight hundred and twenty-four, one thousand one hundred and fifty dollars.

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- For compensation to the Messengers in said office, one thousand and fifty dollars, in full of all allowances.
- For compensation to the First Comptroller of the Treasury, three thousand five hundred dollars.
- For compensation to the Clerks in the office of the First Comptroller, per act of the twentieth of April, one thousand eight hundred and eighteen, seventeen thousand eight hundred and fifty dollars.
- For compensation to the Messengers in said office, one thousand and fifty dollars, in full of all allowances.
- For compensation to the Second Comptroller of the Treasury, three thousand dollars.
- For compensation to the Clerks in the office of the Second Comptroller, per act of twentieth of April, one thousand eight hundred and eighteen, nine thousand seven hundred and fifty dollars.
- For compensation to the Messenger in said office, seven hundred dollars, in full of all allowances.
- For compensation to the First Auditor of the Treasury, three thousand dollars.
- For compensation to the Clerks in the office of the First Auditor of the Treasury, per act of the twentieth of April, one thousand eight hundred and eighteen, thirteen thousand two hundred dollars.
- For compensation to the Messenger in said office, seven hundred dollars, in full of all allowances.
- For compensation to the Second Auditor of the Treasury, three thousand dollars.
- For compensation to the Clerks in the office of the Second Auditor, sixteen thousand two hundred dollars.
- For compensation to the Messenger in said office, seven hundred dollars, in full of all allowances.
- For compensation to the Third Auditor of the Treasury, three thousand dollars.
- For compensation to the Clerks in the office of the Third Auditor, twenty-three thousand three hundred and fifty dollars.
- For compensation to the Messenger and Assistant in said office, one thousand and fifty dollars, in full of all allowances.
- For compensation to the Fourth Auditor of the Treasury, three thousand dollars.
- For compensation to the Clerks in the office of the Fourth Auditor, per act of twentieth April, one thousand eight hundred and eighteen, fifteen thousand and fifty dollars.
- For one additional Clerk, employed per act of appropriation of one thousand eight hundred and twenty-four, one thousand dollars.
- For compensation to the Messenger in said office, seven hundred dollars, in full of all allowances.
- For compensation to the Fifth Auditor of the Treasury, three thousand dollars.
- For compensation to the Clerks in the office of the Fifth Auditor, per act of twentieth of April, one thousand eight hundred and eighteen, ten thousand five hundred dollars.
- For compensation to Clerks in said office, per act of twenty-sixth of May, one thousand eight hundred and twenty-four, three thousand seven hundred dollars.
- For compensation to the Messenger in said office, seven hundred dollars, in full of all allowances.
- For compensation to the Treasurer of the United States, three thousand dollars.
- For compensation to the Clerks in the office of the Treasurer, per act of twentieth of April, one thousand eight hundred and eighteen, five thousand two hundred and fifty dollars.
- For compensation to Clerks in said office, per act of twenty-sixth of May, one thousand eight hundred and twenty-four, one thousand two hundred dollars.
- For compensation to the Messenger in said office, seven hundred dollars, in full of all allowances.
- For compensation to the Register of the Treasury, three thousand dollars.
- For compensation to the Clerks in the office of the Register, per act of twentieth April, one thousand eight hundred and eighteen, twenty-two thousand three hundred and fifty dollars.
- For compensation to the Messenger and Assistant Messenger in said office, including the allowance for stamping ships' registers, one thousand one hundred and fifty dollars, including all allowances.
- For compensation to the Commissioner of the General Land Office, three thousand dollars.
- For compensation to the Clerks in the office of said Commissioner, per act of twentieth of April, one thousand eight hundred and eighteen, twenty-two thousand five hundred and fifty dollars.
- For compensation to the Messenger and Assistant, in said office, one thousand and fifty dollars, in full of all allowances.
- For compensation to the Secretary of the Commissioners of the Sinking Fund, two hundred and fifty dollars.
- For allowance to the person employed in transmitting passports and sealetters; for expenses of translating foreign languages, in the office of the Secretary of the Treasury; for stationery, fuel, printing, and all other incidental and contingent expenses in the Treasury Department, and the several offices therein, including the expenses of stating and printing the public accounts for the year one thousand eight hundred and twenty-five, thirty thousand one hundred and fifty dollars.
- For allowance to the Superintendent and four Watchmen, employed for the security of the State and Treasury buildings: for the repairs of engines, hose, and buckets, one thousand nine hundred dollars.
- For compensation to the Secretary of War, six thousand dollars.
- For compensation to the Clerks in the office of the Secretary of War, twenty-one thousand six hundred dollars.
- For compensation to the Messengers in said office, one thousand and fifty dollars, in full of all allowances.
- For compensation to the Clerks in the office of the Paymaster General, three thousand nine hundred dollars.
- For compensation to the Messenger in said office, seven hundred dollars, in full of all allowances.
- For compensation to the Clerks in the office of Commissary General of Purchases, per act of twenty-sixth May, one thousand eight hundred and twenty-four, three thousand five hundred dollars.
- For compensation to the Messenger in said office, seven hundred dollars, in full of all allowances.
- For compensation to the Clerks in the office of the Adjutant General, per act of twentieth April, one thousand eight hundred and eighteen, two thousand one hundred and fifty dollars.
- For compensation to the Clerks in the office of the Commissary General of Subsistence, per act of twenty-sixth May, one thousand eight hundred and twenty-four, two thousand one hundred and fifty dollars.
- For compensation to the Clerks in the office of the Chief Engineer, per act of twenty-sixth of May, one thousand eight hundred and twenty-four, two thousand one hundred and fifty dollars.
- For compensation to the Clerks in the Ordnance Office, per act of twentieth April, one thousand eight hundred and eighteen, two thousand nine hundred and fifty dollars.
- For compensation to the Clerk in the Surgeon General's office, per act of twenty-sixth May, one thousand eight hundred and twenty-four, one thousand one hundred and fifty dollars.

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For compensation to the Clerks in the Quartermaster General's office, two thousand one hundred and fifty dollars.  
For contingent expenses of the War Department, including all the subordinate offices thereof, seven thousand dollars.

For compensation to the Secretary of the Navy, six thousand dollars.

For compensation to the Clerks in the office of the Secretary of the Navy, per act of twentieth April, one thousand eight hundred and eighteen, eight thousand two hundred dollars.

For compensation to one Clerk in said office, per act of twenty-sixth May, one thousand eight hundred and twenty-four, one thousand dollars.

For compensation to the Messenger and Assistant in said office, one thousand and fifty dollars, in full of all allowances.

For the contingent expenses of said office, two thousand dollars.

For compensation to the Commissioners of the Navy Board, ten thousand five hundred dollars.

For compensation to the Secretary to the Commissioners of the Navy Board, two thousand dollars.

For compensation to the Clerks in the office of the Commissioners of the Navy Board, per act of the twentieth of April, one thousand eight hundred and eighteen, three thousand five hundred and fifty dollars.

For compensation to Clerks and a Draftsman, per act of twenty-sixth May, one thousand eight hundred and twenty-four, four thousand dollars.

For compensation to the Messenger in said office, seven hundred dollars, in full of all allowances.

For the contingent expenses of the said office, one thousand eight hundred dollars.

For allowance to the Superintendent and four Watchmen, employed for the security of the War and Navy buildings, and for the incidental and contingent expenses, including oil, fuel, and candles, two thousand one hundred and fifty dollars.

For compensation to the Postmaster General, four thousand dollars.

For compensation to two Assistant Postmasters General, five thousand dollars.

For compensation to the Clerks in the General Post Office, per act of twentieth April, one thousand eight hundred and eighteen, twenty-two thousand seven hundred dollars.

For compensation to Clerks in said office, per act of twenty-sixth May, one thousand eight hundred and twenty-four, five thousand six hundred dollars.

For compensation to the Messengers in said office, one thousand and fifty dollars, in full of all allowances.

For the contingent expenses of said office, four thousand dollars.

For repairing building and yard of the General Post Office, two thousand dollars.

For compensation to extra Clerks in the General Post Office, since the first of January, one thousand eight hundred and twenty four, one thousand and eighty-eight dollars and six cents.

For compensation to the Surveyor General, two thousand dollars.

For compensation to the Clerks in the office of the Surveyor General, two thousand one hundred dollars.

For compensation to the Surveyor south of Tennessee, two thousand dollars.

For compensation to the Clerks in the office of the said Surveyor, one thousand seven hundred dollars.

For compensation of two additional Clerks in said office, for the year one thousand eight hundred and twenty-five, one thousand seven hundred dollars.

For compensation to the Surveyor in Illinois, Missouri, and Arkansas, two thousand dollars.

For compensation to the Clerks in the office of the said Surveyor, two thousand dollars.

For compensation to the Surveyor in Alabama, two thousand dollars.

For compensation to the Clerks in the office of the said Surveyor, one thousand five hundred dollars.

For compensation to the Surveyor in Florida, including part of the year one thousand eight hundred and twenty-four, two thousand five hundred dollars.

For compensation to the Clerks in the office of the said Surveyor, two thousand five hundred dollars.

For compensation to the Commissioner of the Public Buildings in Washington City, one thousand five hundred dollars.

For furnishing the President's House, under the direction of the President of the United States, fourteen thousand dollars.

For compensation to the Officers and Clerk of the Mint, nine thousand six hundred dollars.

For compensation to persons employed in the different operations of the Mint, nine thousand four hundred dollars.

For incidental and contingent expenses and repairs; cost of machinery, and for allowance of wastage in the gold and silver coinage of the Mint, seven thousand seven hundred and seventy-five dollars.

For compensation to the Governor, Judges, and Secretary, of the Michigan territory, seven thousand eight hundred dollars.

For the contingent expenses of the Michigan territory, three hundred and fifty dollars.

For compensation of nine members of the Legislative Council of the Michigan territory, one thousand and eighty dollars.

For defraying the expenses of the approaching session of the Legislative Council of the Michigan territory, three thousand and thirty two dollars.

For the contingent expenses of the Legislative Council, including the printing of the laws of said territory, one thousand two hundred dollars.

For compensation to the Governor, Judges, and Secretary, of the Arkansas territory, nine thousand dollars.

For the contingent expenses of the Arkansas territory, three hundred and fifty dollars.

For compensation to the Governor, Judges, and Secretary, of the Florida territory, eight thousand five hundred dollars.

For compensation of thirteen members of the Legislative Council of the territory of Florida, estimating twenty-eight days, at three dollars per day, each, one thousand one hundred and seventy dollars.

For contingent expenses of the Legislative Council, including travelling expenses of the members, and printing the laws of said territory, two thousand dollars.

For the contingent expenses of the Florida territory, three hundred and fifty dollars.

For compensation to the Chief Justice, the Associate Judges, and District Judges of the United States, including the Chief Justice and Associate Judges of the District of Columbia, seventy-nine thousand two hundred dollars.

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For compensation to the Attorney General of the United States, three thousand five hundred dollars.

For compensation to the clerk in the office of the Attorney General, eight hundred dollars.

For compensation to the Reporter of the decisions of the Supreme Court, one thousand dollars.

For compensation to sundry District Attorneys and Marshals, as granted by law, including those in the several territories, ten thousand five hundred dollars.

For defraying the expenses of the Supreme, Circuit, and District Courts of the United States, including the District of Columbia, and of jurors and witnesses, in aid of the funds arising from fines, penalties, and forfeitures, and for defraying the expenses of prosecutions, for offences against the United States, and for the safe keeping of prisoners, two hundred thousand dollars.

For the payment of sundry pensions granted by the late and present Government, two thousand and fifty dollars.

For the support and maintenance of light houses, beacons, buoys, and stakeages, including the purchase of oil, keepers' salaries, repairs, and improvements, and contingent expenses, one hundred and seventeen thousand four hundred and eighty-five dollars and eighty-five cents.

For procuring and placing three buoys on the bar, near the port of Georgetown, South Carolina, being the amount of an appropriation for that object, carried to the surplus fund on the thirty-first December, one thousand eight hundred and twenty-four, three hundred dollars.

For building a light house on Baker's Island, near Mount Desert, in the state of Maine, in addition to the appropriation of two thousand five hundred dollars, made on the third of March, one thousand eight hundred and twenty-three, one thousand three hundred dollars.

For placing a buoy at the mouth of Scuppernong river, in North Carolina, in addition to the appropriation of forty dollars, made on the twenty-sixth of May, one thousand eight hundred and twenty-four, one hundred and forty dollars.

For placing a buoy at the entrance of Beaufort, in North Carolina, eight hundred dollars.

For the payment of balances due to officers of the old internal revenue and direct tax, being the amount carried to the surplus fund on the thirty-first of December, one thousand eight hundred and twenty-four, eight thousand one hundred and thirty-six dollars and fourteen cents.

For the Public Buildings in Washington City, for the year one thousand eight hundred and twenty-five, eighty thousand dollars.

For repairs made to the fire engine and hose, for the use of the Public Buildings, and for keeping the same in repair, one hundred and ten dollars.

For improving the Capital Square, one thousand dollars.

For paving the footway in front of the public grounds on the south side of the Pennsylvania Avenue, between the Capitol and the Navy Office, and for placing stone steps at the several entrances of the Navy Office, six thousand one hundred and sixty-one dollars and ninety-seven cents.

For levelling, graduating, and improving the President's Square, five thousand dollars.

For stationery and books for the offices of Commissioners of Loans, one thousand five hundred dollars.

For bringing to the Seat of Government the votes for President and Vice President of the United States, three thousand three hundred dollars.

For the discharge of such miscellaneous claims against the United States, not otherwise provided for, as shall be ascertained and admitted in due course of settlement at the Treasury, six thousand dollars.

For surveying the public lands of the United States, including the services of three commissioners and a surveyor, appointed to value the land, between Roberts and Ludlow's lines, in the state of Ohio, one hundred and fourteen thousand nine hundred and eighty-two dollars and sixty cents.

For the salaries of the Registers and Receivers of Land Offices, forty-two thousand dollars.

For the salaries of the Ministers at London, Paris, St. Petersburg, and Madrid, and of the Charge des Affaires at Stockholm, in the Netherlands, and at Lisbon, forty-nine thousand five hundred dollars.

For outfits of Ministers to London and Madrid, and for Charge des Affaires at Lisbon and Paris, twenty-seven thousand dollars.

For the salaries to Ministers, or Charge d'Affaires, who have been or may be appointed to the governments on the American continent, to wit: Colombia, nine thousand dollars; Chili, nine thousand dollars; Mexico, nine thousand dollars; Buenos Ayres, four thousand five hundred dollars; Guatamala, four thousand five hundred dollars; and Brazil, four thousand five hundred dollars: in all, forty thousand five hundred dollars.

For outfits of a Minister to Mexico, and to Charge d'Affaires at Guatamala, Buenos Ayres, and Brazil, twenty-two thousand five hundred dollars.

For the salaries of the Secretaries of Legation, fourteen thousand dollars.

For the contingent expenses of all the Missions abroad, twenty thousand dollars.

For the salaries of Agents of Claims, at Paris and London, four thousand dollars.

For the contingent expenses of Foreign Intercourse, forty thousand dollars.

For the relief and protection of distressed American seamen in foreign countries, thirty-five thousand dollars.

For the expenses of Intercourse with the Barbary Powers, thirty thousand dollars.

For the salaries of the Commissioner and Arbitrator under the first article of the treaty of Ghent, one-half the salary of the Secretary, and half the contingent expenses of the Commission, twelve thousand dollars.

For expenses of carrying into effect the sixth and seventh articles of the treaty of Ghent, including the compensation of the Commissioner, Agent, and Surveyor, and their contingent expenses, sixteen thousand dollars.

Sec. 2. *And be it further enacted*, That the several sums hereby appropriated, shall be paid out of any money in the Treasury, not otherwise appropriated: *Provided, however*, That no money appropriated by this act, shall be paid to any person for his compensation, who is in arrears to the United States, until such person shall have accounted for, and paid into the Treasury, all sums for which he may be liable: *Provided, also*, That nothing in this section contained shall be construed to extend to balances arising solely from the depreciation of Treasury notes, received by such person to be expended in the public service; but, in all cases where the pay or salary of the any person is withheld, in pursuance of this act, it shall be the duty of the accounting officer, if demanded by the party, his agent, or attorney, to report forthwith to the agent of the Treasury Department, the balance due; and it shall be the duty of the said agent, within sixty days thereafter, to order suit to be commenced against such delinquent and his sureties.

Sec. 3. *And be it further enacted*, That the Secretary of the Treasury be, and he is hereby authorized and re-



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quired to pay, out of any money in the Treasury, not otherwise appropriated, the sum or sums of money, to which any person, or the legal representatives of any person, may be entitled, by virtue of the act authorizing repayment for lands erroneously sold by the United States, approved the twelfth day of January, in the year eighteen hundred and twenty-five, upon such person, or his or her legal representatives, complying with the requisitions of that act.

Approved, February 25, 1825.

*AN ACT making appropriation for the purchase of Books and Furniture for the use of the Library of Congress.*

*Be it enacted, &c.* That the sum of five thousand dollars be, and the same is hereby, appropriated out of any unappropriated money in the Treasury, for the purchase of books, under the direction of the joint Library Committee, for the use of the Library of Congress.

*Sec. 2. And be it further enacted,* That the sum of three hundred and thirty-nine dollars be, and the same is hereby, appropriated, out of any unappropriated money in the Treasury, for the purchase of furniture for the New Library.

Approved—Feb. 25, 1825.

*RESOLUTION directing an inventory of the Furniture in the President's House to be taken.*

*Resolved, &c.* That the Commissioner of the Public Buildings be, and he is hereby, authorized and directed to take an inventory of the furniture of the President's House, at such time as may be convenient to the President; and to deliver a copy thereof to the President Elect, and one copy to each House of Congress.

Approved—March 3, 1825.

*AN ACT concerning Charles D. Brodie.*

*Be it enacted, &c.* That there be paid to Charles D. Brodie, out of any money in the Treasury, not otherwise appropriated, the sum of one thousand dollars, for his invention and services in stopping a leak in the bottom of the Delaware seventy-four.

Approved—March 3, 1825.

*AN ACT to reduce into one the several Acts establishing and regulating the Post Office Department.*

*Be it enacted, &c.* That there be established at the seat of the Government of the United States, a General Post Office, under the direction of a Postmaster General. The Postmaster General shall appoint two Assistants, and such Clerks as may be necessary for the performance of the business of his office, and as are authorized by law; and shall procure, and cause to be kept, a Seal for the said Office, which shall be affixed to commissions of Postmasters, and used to authenticate all transcripts and copies which may be required from the Department. He shall establish Post Offices, and appoint Postmasters, at all such places as shall appear to him expedient, on the post roads that are, or may be, established by law. He shall give his Assistants, the Postmasters, and all other persons whom he shall employ, or who may be employed, in any of the departments of the General Post Office, instructions relative to their duty. He shall provide for the carriage of the mail on all post roads that are, or may be, established by law, and as often as he, having regard to the productiveness thereof, and other circumstances, shall think proper. He may direct the route or road, where there are more than one, between places designated by law for a post road, which route shall be considered the post road. He shall obtain, from the Postmasters, their accounts and vouchers for their receipts and expenditures, once in three months, or oftener, with the balances thereon arising, in favor of the General Post Office. He shall pay all expenses which may arise in conducting the Post Office, and in the conveyance of the mail, and all other necessary expenses arising on the collection of the revenue, and management of the General Post Office. He shall prosecute offences against the Post Office establishment. He shall, once in three months, render, to the Secretary of the Treasury, a quarterly account of all the receipts and expenditures in the said Department, to be adjusted and settled as other public accounts. He shall, also, superintend the business of the Department, in all the duties that are, or may be, assigned to it: *Provided,* That, in case of the death, resignation, or removal from office, of the Postmaster General, all his duties shall be performed by his senior Assistant, until a successor shall be appointed, and arrive at the General Office, to perform the business.

*Sec. 2. And be it further enacted,* That the Postmaster General, and all other persons employed in the General Post Office, or in the care, custody, or conveyance of the mail, shall, previous to entering upon the duties assigned to them, or the execution of their trusts, and before they shall be entitled to receive any emolument therefor, respectively take and subscribe the following oath, or affirmation, before some magistrate, and cause a certificate thereof to be filed in the General Post Office: "I, A B, do swear or affirm, (as the case may be,) that I will faithfully perform all the duties required of me, and abstain from every thing forbidden by the laws in relation to the establishment of the Post Office and Post Roads within the United States." Every person who shall be, in any manner, employed in the care, custody, conveyance, or management of the mail, shall be subject to all pains, penalties, and forfeitures, for violating the injunctions, or neglecting the duties, required of him by the laws relating to the establishment of the Post Office and Post Roads, whether such person shall have taken the oath or affirmation, above prescribed, or not.

*Sec. 3. And be it further enacted,* That it shall be the duty of the Postmaster General, upon the appointment of any Postmaster, to require, and take, of such Postmaster, bond, with good and approved security, in such penalty as he may judge sufficient, conditioned for the faithful discharge of all the duties of such Postmaster, required by law, or which may be required by any instruction, or general rule, for the government of the Department: *Provided, however,* That, if default shall be made by the Postmaster aforesaid, at any time, and the Postmaster General shall fail to institute suit against such Postmaster, and said sureties, for two years from and after such default shall be made, then, and in that case, the said sureties shall not be held liable to the United States, nor shall suit be instituted against them.

*Sec. 4. And be it further enacted,* That the Postmaster General shall cause a mail to be carried from the nearest Post Office, on any established post road, to the court house of any county, which is now, or may hereafter be, es-

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established in any of the states or territories of the United States, and which is without a mail; and the road on which such mail shall be transported, shall become a post road, and so continue, until the transportation thereon shall cease. It shall, also, be lawful for the Postmaster General to enter into contracts, for a term not exceeding four years, for extending the line of posts, and to authorize the persons, so contracting, as a compensation for their expenses, to receive, during the continuance of such contracts, at rates not exceeding those for like distances, established by this act, all the postage which shall arise on letters, newspapers, magazines, pamphlets, and packets, conveyed by any such posts; and the roads, designated in such contracts, shall, during the continuance thereof, be deemed and considered as post roads, within the provision of this act: and a duplicate of every such contract shall, within sixty days after the execution thereof, be lodged in the office of the Comptroller of the Treasury of the United States.

Sec. 5. *And be it further enacted*, That the Postmaster General be authorized to have the mail carried in any steam boat, or other vessel, which shall be used as a packet, in any of the waters of the United States, on such terms and conditions as shall be considered expedient: *Provided*, That he does not pay more than three cents for each letter, and more than one half cent for each newspaper, conveyed in such mail.

Sec. 6. *And be it further enacted*, That it shall be the duty of every master or manager of any steam-boat, which shall pass from one port or place in the United States, where a post office is established, to deliver, within three hours after his arrival, if in the day time, and within two hours after the next sunrise, if the arrival be in the night, all letters and packages addressed to, or destined for, such port or place, to the Postmaster there, for which he shall be entitled to receive, of such Postmaster, two cents for every letter or packet so delivered, unless the same shall be carried or conveyed under a contract with the Postmaster General; and if any master or manager of a steam boat shall fail so to deliver any letter or packet, which shall have been brought by him, or shall have been in his care, or within his power, he shall incur a penalty of thirty dollars for every such failure. And every person employed on board any steam boat, shall deliver every letter, and packet of letters, entrusted to such person, to the master or manager of such steam boat, and before the said vessel shall touch at any other port or place; and, for every failure or neglect so to deliver, a penalty of ten dollars shall be incurred for each letter or packet.

Sec. 7. *And be it further enacted*, That no other than a free white person shall be employed in conveying the mail, and any contractor who shall employ, or permit, any other than a free white person to convey the mail, shall, for every such offence, incur a penalty of twenty dollars.

Sec. 8. *And be it further enacted*, That, whenever it shall be made appear, to the satisfaction of the Postmaster General, that any road established, or which may hereafter be established, as a post road, is obstructed by fences, gates, or bars, or other than those lawfully used on turnpike roads to collect their toll, and not kept in good repair, with proper bridges and ferries, where the same may be necessary, it shall be the duty of the Postmaster General to report the same to Congress, with such information as can be obtained, to enable Congress to establish some other road instead of it, in the same main direction.

Sec. 9. *And be it further enacted*, That, if any person shall, knowingly and wilfully, obstruct, or retard, the passage of the mail, or of any driver or carrier, or of any horse or carriage, carrying the same, he shall, upon conviction, for every such offence, pay a fine not exceeding one hundred dollars; and if any ferryman shall, by wilful negligence, or refusal to transport the mail across any ferry, delay the same, he shall forfeit and pay, for every ten minutes that the same shall be so delayed, a sum not exceeding ten dollars.

Sec. 10. *And be it further enacted*, That it shall be the duty of the Postmaster General to give public notice, in one newspaper published at the seat of Government of the United States, and in one or more of the newspapers published in the state, or states, or territory, where the contract is to be performed, for at least twelve weeks before entering into any contract for carrying the mail, that such contract is intended to be made, and the day on which it is to be concluded, describing the places from, and to which such mail is to be conveyed, the time at which it is to be made up, and the day and hour at which it is to be delivered. He shall, moreover, within ninety days after the making of any contract, lodge a duplicate thereof, together with the proposals which he shall have received respecting it, in the office of the Comptroller of the Treasury of the United States: *Provided*, That no contract shall be entered into for a longer term than four years.

Sec. 11. *And be it further enacted*, That every Postmaster shall keep an office, in which one or more persons shall attend on every day on which a mail shall arrive, by land or water, as well as on other days, at such hours as the Postmaster General shall direct, for the purpose of performing the duties thereof; and it shall be the duty of the Postmaster, at all reasonable hours, on every day of the week, to deliver, on demand, any letter, paper, or packet, to the person entitled to, or authorized to receive, the same; and all letters brought to any post office half an hour before the time of making up the mail at such office, shall be forwarded therein, except at such post offices where, in the opinion of the Postmaster General, it requires more time for making up the mail, and which he shall accordingly prescribe; but this shall, in no case, exceed one hour.

Sec. 12. *And be it further enacted*, That no fees or perquisites shall be received by any person employed in the General Post Office, on account of the duties to be performed by virtue of his appointment.

Sec. 13. *And be it further enacted*, That the following rates of postage be charged on all letters and packets, (excepting such as are excepted by law,) conveyed in the mail of the United States, viz: For every letter composed of a single sheet of paper, conveyed not exceeding thirty miles, six cents. Over thirty, and not exceeding eighty, ten cents. Over eighty, and not exceeding one hundred and fifty, twelve and a half cents. Over one hundred and fifty, and not exceeding four hundred, eighteen and three quarters of a cent. Over four hundred, twenty-five cents.

And for every double letter, or letter composed of two pieces of paper, double those rates; and for every triple letter, or letter composed of three pieces of paper, triple those rates; and for every packet composed of four or more pieces of paper, or one or more other articles, and weighing once ounce avoirdupois, quadruple those rates; and in that proportion for all greater weights: *Provided*, That no packet of letters, conveyed by the water mails, shall be charged with more than quadruple postage, unless the same shall contain more than four distinct letters. No postmaster shall receive, to be conveyed by the mail, any packet which shall weigh more than three pounds; and the postage marked on any letter or packet, and charged in the post bill which may accompany the same, shall be conclusive evidence in favor of the postmaster who delivers the same, of the lawful postage thereon; unless such letter or packet shall be opened in presence of the postmaster or his clerk. Every four folio pages, or eight quarto pages, or sixteen octavo, or twenty-four duodecimo pages, or pages less than that of a pamphlet size, or magazine, whatever be the size of the paper of which it is formed, shall be considered a sheet; and the surplus

pages of any pamphlet or magazine shall also be considered a sheet; and the journals of the legislatures of the several states, not being bound, shall be liable to the same postage as pamphlets.

Any memorandum which shall be written on a newspaper, or other printed paper, pamphlet, or magazine, and transmitted by mail, shall be charged with letter postage: *Provided*, The publisher of a newspaper may send a printed or written notice to a subscriber, stating the amount due on his subscription; which notice shall be attached to the margin of the newspaper, and the postmaster who delivers the paper shall charge for such notice the same postage as for a newspaper.

Sec. 14. *And be it further enacted*, That the Postmaster General be, and he is hereby authorized to allow to each postmaster, such commission on the postages by him collected, as shall be adequate to his services and expenses: *Provided*, That his commission shall not exceed the following several rates on the amount received in one quarter, viz:

On a sum not exceeding one hundred dollars, thirty per cent.

On any sum over and above the first hundred dollars, and not exceeding four hundred dollars, twenty-five per cent.

On any sum over and above the first four hundred dollars, and not exceeding two thousand four hundred dollars, twenty per cent.

On any sum over and above the first two thousand four hundred dollars, eight per cent.

Except to the Postmasters who may be employed in receiving and despatching foreign mails, whose compensation may be augmented, not exceeding twenty-five dollars in one quarter; and excepting to the Postmasters at offices where the mail is regularly to arrive between the hours of nine o'clock at night and five o'clock in the morning, whose commission on the first hundred dollars collected in one quarter, may be increased to a sum not exceeding fifty per cent. The Postmaster General may allow to the Postmasters, respectively, a commission of fifty per cent. on the moneys arising from the postage of newspapers, magazines, and pamphlets; and to the Postmasters whose compensation shall not exceed five hundred dollars in one quarter, two cents for every free letter delivered out of the office, excepting such as are for the Postmaster himself; and each Postmaster, who shall be required to keep a register of the arrival and departure of the mails, shall be allowed ten cents for each monthly return which he makes thereof to the General Post Office. The Postmaster General may allow to the Postmaster at New Orleans, at the rate of eight hundred dollars a year, in addition to his ordinary commissions. The Postmaster General is hereby authorized to allow to the Postmaster of the City of Washington, in addition to the allowance made by this act, for postage collected, and for free letters received by him for delivery, a commission of five per cent. on the amount of mails distributed at his office: *Provided*, nevertheless, That the whole annual emolument of the said Postmaster, including the extra compensation of eight hundred dollars which is hereby allowed him, shall be subject to the restrictions imposed by the forty-first section of this act.

Sec. 15. *And be it further enacted*, That every letter or packet, brought into the United States, or carried from one port therein to another, in any private ship or vessel, shall be charged with six cents, if delivered at the Post Office where the same shall arrive; and if destined to be conveyed by post to any place, with two cents added to the ordinary rates of postage.

Sec. 16. *And be it further enacted*, That, if any Postmaster, or other person, authorized by the Postmaster General to receive the postage of letters, shall fraudulently demand or receive any rate of postage, or gratuity, or reward, other than is provided by this act, for the postage of letters, or packets, on conviction thereof, he shall forfeit, for every such offence, one hundred dollars.

Sec. 17. *And be it further enacted*, That no ship or vessel, arriving at any port within the United States where a Post Office is established, shall be permitted to report, make entry, or break bulk, until the master or commander shall have delivered to the Postmaster all letters directed to any person or persons within the United States, or the territories thereof, which, under his care, or within his power, shall be brought in such ship or vessel, except such as are directed to the owner or consignee of the ship or vessel. And it shall be the duty of the Collector or other officer of the port empowered to receive entries of ships or vessels, to require from every master or commander of such ship or vessel, an oath or affirmation, purporting that he has delivered all such letters, except as aforesaid; and if any commander or master of any such ship or vessel shall break bulk before he shall have complied with the requirements of this act, every such offender shall, on conviction thereof, forfeit, for every such offence, a sum not exceeding one hundred dollars.

Sec. 18. *And be it further enacted*, That the Postmaster, to whom such letters may be delivered, shall pay the master or commander, or other person delivering the same, except the commanders of foreign packets, two cents for each letter or packet; and shall obtain from the person delivering the same, a certificate, specifying the number of letters and packets, with the name of the ship or vessel, and the place from whence she last sailed; which certificate, together with a receipt for the money, shall be, with his quarterly accounts, transmitted to the Postmaster General, who shall credit him with the amount.

Sec. 19. *And be it further enacted*, That no stage or other vehicle, which regularly performs trips on a Post Road, or on a road parallel to it, shall convey letters; nor shall any packet, boat, or other vessel, which regularly plies on a water declared to be a Post Road, except such as relate to some part of the cargo. For the violation of this provision, the owner of the carriage, or other vehicle, or vessel, shall incur the penalty of fifty dollars. And the person who has charge of such carriage, or other vehicle, or vessel, may be prosecuted under this section, and the property in his charge may be levied on and sold, in satisfaction of the penalty and costs of suit. *Provided*, That it shall be lawful for any one to send letters by special messenger.

Sec. 20. *And be it further enacted*, That the Deputy Postmaster, and other agents of the Postmaster General, shall duly account, and answer to him for all way letters which shall come to their hands; and for this purpose, the Post riders, and other carriers of the mail, receiving any way letter or letters, (and it shall be their duty to receive them, if presented more than one mile from a Post Office,) shall deliver the same, together with the postage, if paid, at the first Post Office to which they shall afterwards arrive; where the Postmaster shall duly enter the same, and specify the number and rate or rates, in the post bill, adding to the rate of each way letter, one cent; which shall be paid by the Postmaster to the mail carrier from whom such way letters shall be received.

Sec. 21. *And be it further enacted*, That, if any person employed in any of the departments of the Post Office establishment, shall unlawfully detain, delay, or open, any letter, packet, bag, or mail of letters, with which he shall be entrusted, or which shall have come to his possession, and which are intended to be conveyed by post; or, if any such person shall secrete, embezzle, or destroy, any letter or packet entrusted to such person as aforesaid, and which shall not contain any security for, or assurance relating to, money, as hereinafter described, every

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such offender, being thereof duly convicted, shall, for every such offence, be fined, not exceeding three hundred dollars, or imprisoned, not exceeding six months, or both, according to the circumstances and aggravation of the offence. And, if any person, employed as aforesaid, shall secrete, embezzle, or destroy, any letter, packet, bag, or mail of letters, with which he or she shall be entrusted, or which shall have come to his or her possession, and are intended to be conveyed by post, containing any bank note, or bank post bill, bill of exchange, warrant of the Treasury of the United States, note of assignment of stock in the funds, letters of attorney for receiving annuities for, or relating to, payment of moneys, or any bond, or warrant, draft, bill, or promissory note, covenant, contract, or agreement whatsoever, for, or relating to, the payment of money, or the delivery of any articles of value, or the performance of any act, matter, or thing, or any receipt, release, acquittance, or discharge of, or from, any debt, covenant, or demand, or any part thereof; or any copy of any record of any judgment, or decree, in any court of law or chancery, or any execution which may have issued thereon; or any copy of any other record, or any other article of value, or any writing representing the same; or if any such person, employed as aforesaid, shall steal or take any of the same out of any letter, packet, bag, or mail of letters that shall come to his or her possession, such person shall, on conviction for any such offence, be imprisoned not less than ten years, nor exceeding twenty-one years; and if any person who shall have taken charge of the mails of the United States, shall quit or desert the same before such person delivers it into the Post Office kept at the termination of the route, or some known mail carrier, or agent of the General Post Office, authorized to receive the same, every such person, so offending, shall forfeit and pay a sum not exceeding five hundred dollars for every such offence; and if any such person concerned in carrying the mail of the United States, shall collect, receive, or carry any letter or packet, or shall cause or procure the same to be done, contrary to this act, every such offender shall forfeit and pay, for every such offence, a sum not exceeding fifty dollars.

Sec. 22. *And be it further enacted*, That, if any person shall rob any carrier of the mail of the United States, or other person entrusted therewith, of such mail, or any part thereof, such offender or offenders shall, on conviction, be imprisoned not less than five years, nor exceeding ten years; and, if convicted a second time of a like offence, he or they shall suffer death; or if, in effecting such robbery of the mail the first time, the offender shall wound the person having custody thereof, or put his life in jeopardy, by the use of dangerous weapons, such offender or offenders shall suffer death. And if any person shall attempt to rob the mail of the United States, by assaulting the person having custody thereof, shooting at him or his horse or mule, or threatening him with dangerous weapons, and the robbery is not effected, every such offender, on conviction thereof, shall be punished by imprisonment, not less than two years, nor exceeding ten years. And, if any person shall steal the mail, or shall steal or take from, or out of, any mail, or from or out of any Post Office, any letter or packet; or, if any person shall take the mail, or any letter or packet therefrom, or from any Post Office, whether with or without the consent of the person having custody thereof, and shall open, embezzle, or destroy, any such mail, letter, or packet, the same containing any article of value, or evidence of any debt, due, demand, right, or claim, or any release, receipt, acquittance, or discharge, or any other article, paper, or thing mentioned and described in the twenty-first section of this act; or, if any person shall, by fraud or deception, obtain from any person having custody thereof, any mail, letter, or packet, containing any article of value, or evidence thereof, or either of the writings referred to, or next above mentioned, such offender or offenders, on conviction thereof, shall be imprisoned not less than two, nor exceeding ten years. And if any person shall take any letter, or packet, not containing any article of value, or evidence thereof, out of any Post Office, or shall open any letter or packet, which shall have been in a Post Office, or in custody of a mail carrier, before it shall have been delivered to the person to whom it is directed, with a design to obstruct the correspondence, to pry into another's business or secrets; or shall secrete, embezzle, or destroy, any such mail letter, or packet, such offender, upon conviction, shall pay for every such offence, a sum not exceeding five hundred dollars, and be imprisoned not exceeding twelve months.

Sec. 23. *And be it further enacted*, That, if any person shall rip, cut, tear, burn, or otherwise injure, any valise, portmanteau, or other bag, used, or designed to be used, by any person acting under the authority of the Postmaster General, or any person in whom his powers are vested, in a conveyance of any mail, letter, packet, or newspaper, or pamphlet; or shall draw or break any staple, or loosen any part of any lock, chain, or strap, attached to, or belonging to any such valise, portmanteau, or bag, with an intent to rob, or steal any mail, letter, packet, newspaper, or pamphlet, or to render either of the same insecure, every such offender, upon conviction, shall, for every such offence, pay a sum not less than one hundred dollars, nor exceeding five hundred dollars, or be imprisoned, not less than one year, nor exceeding three years, at the discretion of the court before whom such conviction is had.

Sec. 24. *And be it further enacted*, That every person, who, from and after the passage of this act, shall procure, and advise, or assist, in the doing or perpetration of any of the acts or crimes by this act forbidden, shall be subject to the same penalties and punishments as the persons are subject to, who shall actually do or perpetrate any of the said acts or crimes, according to the provision of this act.

Sec. 25. *And be it further enacted*, That every person who shall be imprisoned by a judgment of court, under and by virtue of the twenty-first, twenty-second, twenty-third, or twenty-fourth sections of this act, shall be kept at hard labor during the period of such imprisonment.

Sec. 26. *And be it further enacted*, That the Postmasters shall, respectively, publish, at the expiration of every three months, or oftener, when the Postmaster General shall so direct, in one of the newspapers published at or nearest the place of his residence, for three successive weeks, a list of all the letters remaining in their respective offices, or, instead thereof, shall make out a number of such lists, and cause them to be posted at such public places in their vicinity, as shall appear to them best adapted for the information of the parties concerned; and, at the expiration of the next three months, shall send such of the said letters as then remain on hand, as dead letters, to the General Post Office, where the same shall be opened and inspected; and if any valuable papers or matters of consequence shall be found therein, it shall be the duty of the Postmaster General to return such letter to the writer thereof, or cause a descriptive list thereof to be inserted in one of the newspapers published at the place most convenient to the supposed residence of the owner, if within the United States; and such letter, and the contents, shall be preserved, to be delivered to the person to whom the same shall be addressed, upon payment of the postage and expense of publication. And if such letter contain money, the Postmaster General may appropriate it to the use of the Department, keeping an account thereof, and the amount shall be paid by the Department to the rightful claimant so soon as he shall be found.

Sec. 27. *And be it further enacted*, That letters and packets to and from the following officers of the United

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States, shall be received and conveyed by post, free of postage. Each Postmaster, provided each of his letters or packets shall not exceed half an ounce in weight; each member of the Senate, and each member and delegate of the House of Representatives of the Congress of the United States, the Secretary of the Senate, and Clerk of the House of Representatives, provided each letter or packet, (except documents printed by the order of either House of Congress,) shall not exceed two ounces in weight, and during their actual attendance in any session of Congress, and sixty days before and after such session; and in case of excess of weight, that excess alone shall be paid for; the President of the United States, Vice President, the Secretaries of State, of the Treasury, of War, of the Navy, Attorney General, Postmaster General, and the Assistants Postmaster General, the Comptrollers of the Treasury, Auditors, Register, Treasurer, and Commissioner of the General Land Office, and such individuals who shall have been, or may hereafter be, President of the United States, and each may receive newspapers by post, free of postage: *Provided*, That Postmasters shall not receive, free of postage, more than one daily newspaper, each, or what is equivalent thereto; nor shall members of the Senate, or of the House of Representatives, the Clerk of the House, or Secretary of the Senate, receive newspapers, free of postage, after their privilege of franking shall cease.

Sec. 28. *And be it further enacted*, That, if any person shall frank any letter or letters, other than those written by himself, or by his order, on the business of his office, he shall, on conviction thereof, pay a fine of ten dollars, and it shall be the especial duty of Postmasters to prosecute for said offence: *Provided*, That the Secretary of the Treasury, Secretary of State, Secretary of War, Secretary of the Navy, and Postmaster General, may frank letters or packets on official business, prepared in any other public office, in the absence of the principal thereof. And if any person, having the right to receive his letters free of postage, shall receive enclosed to him any letter or packet addressed to a person not having that right, it shall be his duty to return the same to the post office, marking thereon the place from whence it came, that it may be charged with postage. And if any person shall counterfeit the hand writing or frank of any person, or cause the same to be done, in order to avoid the payment of postage, each person, so offending, shall pay for every such offence, five hundred dollars.

Sec. 29. *And be it further enacted*, That every printer of newspapers may send one paper to each and every other printer of newspapers within the United States, free of postage, under such regulations as the Postmaster General shall provide.

Sec. 30. *And be it further enacted*, That all newspapers conveyed in the mail shall be under cover, open at one end, and charged with a postage of one cent each, for any distance not more than one hundred miles, and one and a half cents for any greater distance: *Provided*, That the postage of a single newspaper from any one place to another in the same state, shall not exceed one cent, and the Postmaster General shall require those who receive newspapers by post, to pay always the amount of one quarter's postage in advance; and should the publisher of any newspaper, after being three months previously notified that his paper is not taken out of the office, to which it is sent for delivery, continue to forward such paper in the mail, the postmaster to whose office such paper is sent, may dispose of the same for the postage, unless the publisher shall pay it. If any person employed in any department of the post office, shall improperly detain, delay, embezzle, or destroy any newspaper, or shall permit any other person to do the like, or shall open, or permit any other to open, any mail or packet of newspapers, not directed to the office where he is employed, such offender shall, on conviction thereof, forfeit a sum, not exceeding fifty dollars, for every such offence. And if any other person shall open any mail or packet of newspapers, or shall embezzle or destroy the same, not being directed to such person, or not being authorized to receive or open the same, such offender shall, on conviction thereof, pay a sum not exceeding twenty dollars, for every such offence. And if any person shall take, or steal, any packet, bag, or mail of newspapers, from or out of any post office, or from any person having custody thereof, such person shall, on conviction, be imprisoned, not exceeding three months, for every such offence, to be kept at hard labor during the period of such imprisonment. If any person shall enclose or conceal a letter, or other thing, or any memorandum in writing, in a newspaper, pamphlet, or magazine, or in any package of newspapers, pamphlets, or magazines, or make any writing or memorandum thereon, which he shall have delivered into any post office, or to any person for that purpose, in order that the same may be carried by post free of letter postage, he shall forfeit the sum of five dollars for every such offence. and the letter, newspaper, package, memorandum, or other thing, shall not be delivered to the person to whom it is directed, until the amount of single letter postage is paid for each article of which the package is composed. No newspapers shall be received by the Postmasters, to be conveyed by post, unless they are sufficiently dried, and enclosed in proper wrappers, on which, besides the direction, shall be noted the number of papers which are enclosed for subscribers, and the number for printers: *Provided*, that the number need not be endorsed if the publisher shall agree to furnish the postmaster, at the close of each quarter, a certified statement of the number of papers sent in the mail chargeable with postage.

The Postmaster General, in any contract he may enter into for the conveyance of the mail, may authorize the person with whom such contract is to be made, to carry newspapers, magazines, and pamphlets, other than those conveyed in the mail: *Provided*, That no preference shall be given to the publisher of one newspaper over that of another, in the same place. When the mode of conveyance, and the size of the mail, will admit of it, such magazines and pamphlets as are published periodically, may be transported in the mail, to subscribers, at one and a half cents a sheet, for any distance not exceeding one hundred miles, and two and a half cents for any greater distance. And such magazines and pamphlets as are not published periodically, if sent in the mail, shall be charged with a postage of four cents on each sheet, for any distance not exceeding one hundred miles, and six cents for any greater distance.

Sec. 31. *And be it further enacted*, That, if any Postmaster, or other person authorized to receive the postage of letters and packets, shall neglect or refuse to render his accounts, and pay over to the Postmaster General the balance by him due, at the end of every three months, it shall be the duty of the Postmaster General to cause a suit to be commenced against the person or persons so neglecting or refusing. That all suits, which shall be hereafter commenced, for the recovery of debts or balances due to the General Post Office, whether they appear by bond or obligations, made in the name of the existing, or any preceding Postmaster General, or otherwise, shall be instituted in the name of the "Postmaster General of the United States." That certified statements, under the seal of the General Post Office, of the accounts of the several Postmasters and contractors, after the same shall have been examined and adjusted at that office, shall be admitted as evidence in all suits brought by the Postmaster General for the recovery of balances or debts due from Postmasters or contractors; and also, certified copies of the quarterly accounts of Postmasters; or, if lodged in the Treasury, copies, certified by the Register, under the seal of his office, shall be admitted as evidence.



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Sec. 32. *And be it further enacted, That, if any Postmaster shall neglect to render his accounts for one month after the time, and in the form and manner prescribed by law, and by the Postmaster General's instructions, conformable therewith, he shall forfeit double the value of the postages which shall have arisen at the same office in any equal portion of time previous or subsequent thereto; or, in case no account shall have been rendered at the time of trial of such case, then such sum as the Court and jury shall estimate, equivalent thereto, to be recovered by the Postmaster General, in an action of debt, on a bond against the Postmaster and his securities, and for which the securities shall be liable.*

Sec. 33. *And be it further enacted, That all pecuniary penalties and forfeitures, incurred under this act, shall be one half for the use of the person or persons informing and prosecuting for the same, and the other half to the use of the United States, and shall be paid over to the Postmaster General, and accounted for by him as other moneys of the Department.*

Sec. 34. *And be it further enacted, That it shall be lawful for the Postmaster General to make provision, where it may be necessary, for the receipt of all letters and packets intended to be conveyed by any ship or vessel beyond sea, or from any port in the United States to another port therein; and the letters so received shall be formed into a mail, sealed up, and directed to the Postmaster of the port to which such ship or vessel shall be bound; and for every letter or packet so received, there shall be paid, at the time of its reception, a postage of one cent, which shall be for the use of the Postmasters respectively receiving the same. And the Postmaster General may make arrangements with the Postmasters in any foreign country, for the reciprocal receipt and delivery of letters and packets through the Post Office.*

Sec. 35. *And be it further enacted, That the Postmasters, Post riders, and drivers of the mail stages, shall be exempt from militia duties, and serving on juries, or any fine or penalty for neglect thereof.*

Sec. 36. *And be it further enacted, That letter carriers shall be employed at such Post Offices as the Postmaster General shall direct, for the delivery of letters in the places, respectively, where such Post Offices are established; and, for the delivery of each such letter, the letter carrier may receive, of the person to whom the delivery is made, two cents: Provided, That no letter shall be delivered to such letter carrier for delivery, addressed to any person who shall have lodged at the Post Office a written request that the letters shall be detained in the office. And, for every letter lodged at any Post Office, not to be carried by post, but to be delivered at the place where it is so lodged, the Postmaster shall receive one cent of the person to whom it shall be delivered.*

Sec. 37. *And be it further enacted, That all causes of action arising under this act, may be sued, and all offenders against this act, may be prosecuted, before the justices of the peace, magistrates, or other judicial courts of the several states, and of the several territories of the United States, they having competent jurisdiction, by the laws of such states or territories, to the trial of claims and demands of as great value, and of the prosecutions, where the punishments are of as great extent; and such justices, magistrates, or judiciary, shall take cognizance thereof, and proceed to judgment and execution, as in other cases.*

Sec. 38. *And be it further enacted, That, in all suits or causes arising under this act, the Court shall proceed to trial, and render judgment the first term after such suit shall be commenced: Provided, always, That, whenever service of the process shall not have been made twenty days at least previous to the return day of such term, the defendant shall be entitled to one continuance, if the Court, on the statement of such defendant, shall judge it expedient: Provided, also, That, if the defendant in such suits shall make affidavit that he has a claim against the General Post Office, not allowed by the Postmaster General, although submitted to him conformably to the regulations of the Post Office, and shall specify such claim in the affidavit, and that he could not be prepared for the trial at such term, for want of evidence, the Court, in such case, being satisfied in those respects, may grant a continuance until the next succeeding term; and the Postmaster General shall be authorized to discharge from imprisonment any person confined in jail, on any judgment in a civil case, obtained in behalf of the Department: Provided, It be made to appear that the defendant has no property of any description: And, provided, That such release shall not bar a subsequent execution against the property of the defendant.*

Sec. 39. *And be it further enacted, That it shall be the duty of the Postmaster General to report, annually, to Congress, every post road which shall not, after the second year from its establishment, have produced one-third of the expense of carrying the mail on the same.*

Sec. 40. *And be it further enacted, That the Adjutant General of the Militia of each state and territory shall have right to receive, by mail, free of postage, from any Major General or Brigadier General thereof, and to transmit to said Generals, any letter or packet, relating solely to the militia of such state or territory: Provided, always, That every such officer, before he delivers any such letter or package for transmission, shall, in his own proper hand writing, on the outside thereof, endorse the nature of the papers enclosed, and thereto subscribe his name and office; and shall previously furnish the Postmaster of the office where he shall deposit the same, with a specimen of his signature. And if any such officer shall frank any such letter or package, in which shall be contained any thing relative to any subject, other than of the militia of such state or territory, every such offender shall, on conviction of every such offence, forfeit and pay a fine of fifty dollars.*

Sec. 41. *And be it further enacted, That, whenever the annual emoluments of any Postmaster, after deducting therefrom the necessary expenditures incident to his office shall amount to more than two thousand dollars, the surplus shall be accounted for, and paid to the Postmaster General, and by him to be accounted for in the same manner as other moneys accruing from the Post Office establishment.*

Sec. 42. *And be it further enacted, That no Postmaster, Assistant Postmaster, or Clerk, employed in any Post Office, shall be a contractor, or concerned in a contract for carrying the mail: Provided, That this section shall not interfere with contracts heretofore made.*

Sec. 43. *And be it further enacted, That no additional allowance shall be made, by the Postmaster General, to the contractor or carrier of any mail, on any route, over or beyond the amount stipulated in the contract entered into for the transportation of the mail on such route, unless additional service shall be required; and then no additional compensation shall be allowed to exceed the exact proportion of the original amount to the additional duties required; and the Postmaster General shall, in all such cases, within thirty days thereafter, transmit to the First Comptroller of the Treasury an account of such additional services, and the compensation to be allowed therefor.*

Sec. 44. *And be it further enacted, That any person or persons, who shall hereafter make any proposal, in writing, to carry or transport the mail upon any route or routes, which may be advertised to be let, and such person or persons shall be determined by the Postmaster General to be entitled to the contract, by virtue of such*

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proposition, and such person or persons shall fail or refuse to enter into an obligation, with good and sufficient security, to perform such contract within the time required by the Postmaster General, in such advertisement, such person or persons shall forfeit and pay so much money as shall be the difference between the amount contained in such proposal, and the amount the Postmaster General shall have to pay for the same transportation of the mail on such route or routes; which sum may be recovered by the Postmaster General in an action on the case.

Sec. 45. *And be it further enacted*, That, if any person shall buy, receive, or conceal, or aid in buying, receiving, or concealing, any article mentioned in the twenty-first section of this act, knowing the same to have been stolen or embezzled from the mail of the United States, or out of any Post Office, or from any person having the custody of the said mail, or the letters sent, or to be sent therein; or if any person shall be accessory after the fact, to any robbery of the carrier of the mail of the United States, or other persons entrusted therewith, of such mail, or of part thereof, every person, so offending, shall, on conviction thereof, pay a fine not exceeding two thousand dollars, and be imprisoned and confined to hard labor for any time not exceeding ten years. And such person or persons, so offending, may be tried and convicted, without the principal offender being first tried, provided such principal offender has fled from justice, or cannot be found, to be put on his trial.

Sec. 46. *And be it further enacted*, That all acts, and parts of acts which have been passed for the establishment and regulation of the General Post Office, shall be, and the same are hereby, repealed: *Provided*, That the act, entitled "An act concerning public contracts," approved on the twenty-first of April, one thousand eight hundred and eight, shall not be affected hereby, but shall remain in full force and virtue: *And provided, also*, That nothing herein contained shall be construed to affect, or extend to, any offence committed against the laws, now in force, intended by this act to be repealed; but the same shall be prosecuted, and determined, and punished, according to the said laws; nor to affect any existing contract, or debt, or demand, due to or from the Department; but all such offences, crimes, debts, duties, demands, and contracts, shall be held in force, and adjudged, determined, and executed according to the present laws in force, as though this act had not passed; nor shall it affect any appointments to office made under the laws hereby repealed.

Approved, March 3, 1825.

*AN ACT for the relief of Samuel Russell.*

*Be it enacted, &c.* That the proper accounting officers of the Treasury Department be, and they are hereby, authorized and directed to pay to Samuel Russell, late Deputy Commissary of Purchases, the sum of eighteen hundred dollars, as an allowance for clerk hire, office rent, superintending the making up of army clothing, and for issuing public supplies, during the late war; and that the same be paid out of any money in the Treasury, not otherwise appropriated.

Approved, March 3, 1825.

*AN ACT for the relief of Paul Chase.*

*Be it enacted, &c.* That Paul Chase, and Samuel Clark his security, be, and they are hereby, discharged from the payment of the sum of three thousand two hundred dollars due to the United States, on account of duties on merchandise imported into the United States, prior to the occupation of the town of St. Mary's, in Georgia, by the British forces under the command of Admiral Cockburn, in eighteen hundred and fifteen, which merchandise was captured and carried out of the United States by the enemy.

Sec. 2. *And be it further enacted*, That the United States Attorney for the District of Georgia, be, and he is hereby required to enter a credit of three thousand two hundred dollars, on any judgment or judgments heretofore recovered, in the District Court of the United States, against the said Paul Chase and his said security, on account of duties claimed by the United States, on merchandise so imported into the United States by the said Paul Chase; and also for the costs which may have accrued thereon.

Approved, March 3, 1825.

*AN ACT for the relief of Moses Shepherd.*

*Be it enacted, &c.* That there be paid to Moses Shepherd, out of any money in the Treasury, not otherwise appropriated, the sum of thirty-three thousand six hundred and seventy-four dollars and thirty six cents, in full for balance due him.

Approved, March 3, 1825.

*AN ACT for the relief of William Little, administrator of Minor Reeves.*

*Be it enacted, &c.* That the proper accounting officer of the Treasury be directed to settle and allow the claim of William Little, administrator of Minor Reeves, for a horse and equipage lost in the campaign against the Seminole Indians, upon the same principles that other claims have been settled, for similar losses, under the act approved the fourth of May, eighteen hundred and twenty-one, entitled "An act for the relief of the officers, volunteers, and other persons, engaged in the late campaign against the Seminole Indians;" and that the amount, so allowed, be paid out of any money in the Treasury, not otherwise appropriated.

Approved, March 3, 1825.

*AN ACT making appropriation to satisfy certain balances due to the Commissioners and Secretaries of Land Claims in Florida.*

*Be it enacted, &c.* That there be, and hereby is, appropriated, out of any money in the Treasury, not otherwise appropriated, the sum of three thousand three hundred and eighty-six dollars and five cents, to satisfy certain

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balances due to the Commissioners of Land Claims in Florida, and the several Secretaries, prior to thirty-first day of December, one thousand eight hundred and twenty-four.

Approved—March 3, 1825.

*AN ACT for the relief of Capt. Daniel T. Patterson, of the Navy of the United States.*

*Be it enacted, &c.* That the proper accounting officers of the Treasury Department be, and they are hereby, authorized and directed to pass to the credit of Captain Daniel T. Patterson, the sum of two hundred and fifty dollars, the amount with which he stands overcharged on the books of the Navy Department.

Approved—March 3, 1825.

*AN ACT for the relief of Priscilla Adams.*

*Be it enacted, &c.* That the proper accounting officers of the Treasury Department be, and they are hereby, authorized and directed to ascertain and pay to Priscilla Adams, widow and administratrix of Charles Adams, deceased, late a soldier of the sixteenth regiment United States' Infantry, the amount of monthly pay and bounty, due to the said Charles Adams at the time of his death; and that the same shall be paid out of any money in the Treasury, not otherwise appropriated.

Approved—March 3, 1825.

*AN ACT for the relief of Thomas Hewes.*

*Be it enacted, &c.* That the proper accounting officers of the Treasury Department be, and they are hereby, authorized and directed to pay to Thomas Hewes, out of any money in the Treasury, not otherwise appropriated, the balance which will remain of the sum of four thousand one hundred and sixty-four dollars twenty-four cents, being the amount collected from him by the Marshal of the District of Louisiana, in virtue of an execution issued against him as the security of James Jones, for the District Court of the United States for the state of Vermont, after deducting the amount of duties remaining upon certain goods imported into Vermont from Canada, by said Jones, in the year one thousand eight hundred and twelve, with interest thereon, and all necessary expenses incurred by the United States, in prosecuting the suits instituted against the said Jones and Hewes, on account of the importation of said goods.

Approved—March 3, 1825.

*AN ACT granting certain rights to David Tate, Josiah Fletcher, and John Weatherford.*

*Be it enacted, &c.* That all right, title, and interest, which the United States possess, in each of the reservations severally made to David Tate, Josiah Fletcher, and John Weatherford, of lands within the tract of country ceded to the United States by the treaty of Fort Jackson, of the ninth day of August, eighteen hundred and fourteen, with the Creek Nation of Indians, be, and the same is hereby, vested in each occupant and claimant of the tract so reserved and occupied and claimed by him: *Provided*, That no one claim shall exceed the quantity of six hundred and forty acres.

Approved—March 3, 1825.

*AN ACT for the relief of John S. Stiles.*

*Be it enacted, &c.* That the Secretary of the Navy be, and he is hereby, authorized and directed to institute a re-examination of the case of three vessels, to wit: the ship Fabius, the brig Aid, and the schooner Ann, formerly owned by George Stiles, now deceased; which vessels, during the late war, were sunk for the defence of the harbor of Baltimore. And the Secretary of the Navy is hereby further authorized to allow to the legal representative of said George Stiles, such sum as, with what has already been allowed, he, the said Secretary shall deem a just and reasonable compensation for the detention of said vessels, from the seventeenth day of February, one thousand eight hundred and fifteen, to the time when they were delivered to the owner, and from thence to the termination of the period necessary to repair the injury done to them by sinking; according to the intent and meaning of the act of Congress, passed on the twenty-sixth day of April, one thousand eight hundred and twenty-two, entitled "An Act for the relief of sundry citizens of Baltimore; the said sum to be ascertained in such manner as the Secretary of the Navy shall direct; which sum, so allowed, shall be paid out of any money in the Treasury, not otherwise appropriated.

Approved—March 3, 1825.

*AN ACT for the relief of Thomas L. Ogden, and others.*

*Be it enacted, &c.* That there be paid to Thomas L. Ogden, and others, proprietors of grounds contiguous to the village of Sackett's Harbor, for wood consumed by the army of the United States during the late war, the sum of three thousand seven hundred and ten dollars, being in full of the claim made by the said Ogden, on behalf of himself and others, for property taken for public use as aforesaid, out of any money in the Treasury, not otherwise appropriated.

Approved—March 3, 1825.

*AN ACT for the relief of Wm. Townsend.*

*Be it enacted, &c.* That the Secretary of the Treasury be, and he is hereby, authorized to pay to William Townsend, out of any money in the Treasury, not otherwise appropriated, the sum of nine hundred and twenty-

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six dollars and fourteen cents, in full, for an anchor taken from the Navy Yard, in New York, during the late war, and applied to the use of the Government.

Approved—March 3, 1825.

*AN ACT for the relief of Elisha Snow, Jr.*

*Be it enacted, &c.* That there be paid to Elisha Snow, Jr. of Thomastown, out of any money in the Treasury, not otherwise appropriated, the sum of two hundred and forty-eight dollars and seventy-five cents, being the amount paid into the Treasury from the proceeds of the sale of the sloop Mary, Snow, condemned in the District Court for Maine District, at June term, eighteen hundred and twenty-two, and afterwards remitted by the President of the United States.

Approved—March 3, 1825.

*AN ACT for the relief of Joseph Decrits.*

*Be it enacted, &c.* That the accounting officers of the Treasury be, and they are hereby, directed to settle and adjust the accounts of Joseph Decrits, who served as a volunteer artillerist in the army of the United States, during the fall of the year one thousand eight hundred and thirteen; and that they allow him the pay of a sergeant from the time he may prove he was in the service.

Sec. 2. *And be it further enacted,* That the amount, so found due, be paid out of any money in the Treasury, not otherwise appropriated.

Approved—March 3, 1825.

*AN ACT for the relief of Samuel Baylies.*

*Be it enacted, &c.* That the Secretary of the Treasury be, and he is hereby, directed to pay, out of any money in the Treasury, not otherwise appropriated, to Samuel Baylies, the sum of two hundred dollars, for apprehending and delivering twenty deserters to the commanding officer at Fort Armstrong, in the year one thousand eight hundred and fourteen.

Approved—March 3, 1825.

*AN ACT for the relief of Joel Abbot, Jr.*

*Be it enacted, &c.* That the Secretary of the Treasury be, and he is hereby, directed to pay, out of any money in the Treasury, not otherwise appropriated, to Joel Abbot, Jr. the sum of eighty dollars, for a horse lost while in the service of the United States, during the late war.

Approved—March 3, 1825.

*AN ACT for the relief of Samuel Dale, of Alabama.*

*Be it enacted, &c.* That the proper accounting officers of the Treasury Department be directed to allow Samuel Dale, of Alabama, the pay and emoluments of a Major of Infantry in the United States' army, for the period of fifteen months, in full compensation for his services during the late war between the United States and Great Britain, and the Creek and Seminole Indians; and that the sum, so allowed, shall be paid out of any money in the Treasury, not otherwise appropriated.

Approved—March 3, 1825.

*RESOLUTION authorizing the Public Documents, printed by order of Congress, to be furnished to the Gardiner Lyceum.*

*Be it enacted, &c.* That one copy of Seybert's Statistical Annals, and Pitkin's Statistical View, and also one copy of the public Journals of the Senate and House of Representatives, and of the Documents published under the orders of the Senate and House of Representatives, respectively, which have been, or shall be, published, by virtue of a resolution passed December the twenty-seventh, one thousand eight hundred and thirteen, be transmitted to the Executive of the state of Maine, for the use and benefit of the Gardiner Lyceum, in said state.

Approved—March 3, 1825.

*AN ACT authorizing the Secretary of the Treasury to direct the completion of entries for the benefit of drawback after the period of twenty days.*

*Be it enacted, &c.* That, whenever the exporter or exporters, entering any goods, wares, or merchandise, for the benefit of drawback, shall not have completed such entry, by taking the oath, or giving the bond, required by the existing laws of the United States, within the period prescribed by law, but shall offer to complete the said entry after the expiration of the said period, it shall and may be lawful for the Secretary of the Treasury, upon application to him made, by the said exporter or exporters, setting forth the cause of his or their omission, under oath, and accompanied by a statement of the collector, of all the circumstances attending the transaction within the knowledge of such collector, if he shall be satisfied that the failure to complete the said entry was accidental, or without any intention to evade the law or defraud the revenue, to direct the said entry to be completed, and the certificates or debentures, as the case may be, to issue, in the same manner as if such entry had been completed within the period prescribed by the existing laws of the United States.

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*AN ACT* authorizing the subscription of stock in the Chesapeake and Delaware Canal Company.

*Be it enacted, &c.* That the Secretary of the Treasury be, and he is hereby, authorized and directed to subscribe, in the name and for the use of the United States, for one thousand five hundred shares of the capital stock of the Chesapeake and Delaware Canal Company, and to pay for the same, at such times, and in such proportions, as may be required by the said company, out of the dividends which may grow due to the United States upon their bank stock in the Bank of the United States.

Sec. 2. *And be it further enacted,* That the said Secretary of the Treasury shall vote for President and Directors of the said Company, according to such number of shares, and shall receive upon the said stock, the proportion of the tolls which shall, from time to time, be due to the United States for the shares aforesaid.

Approved—March 3, 1825.

*AN ACT* to amend an act, entitled “An act to alter the time of holding the Circuit and District Courts of the United States for the District of South Carolina.”

*Be it enacted, &c.* That, from and after the passing of this act, the Circuit Court for the District of South Carolina, at Columbia, South Carolina, shall commence on the fourth Tuesday in November, annually instead of the third Tuesday, as is now provided for by an act, approved the twenty-fifth day of May, one thousand eight hundred and twenty-four.

Sec. 2. *And be it further enacted,* That all suits, actions, torts, processes, and other proceedings, which are now pending in said Circuit Court, or which are now, or may hereafter be, commenced for, or returnable to, the said Circuit Court at Columbia, at the time heretofore established, shall be returnable to, heard, tried, and determined, in the said Circuit Court, at the time hereby fixed and established.

Approved—March 3, 1825.

*AN ACT* for the relief of the heirs or devisees of John Ferrell, deceased.

*Be it enacted, &c.* That the executors of the last will and testament of John Ferrell, deceased, late of the state of Ohio, be, and they are hereby, authorized to relinquish to the United States the East half of the South-east quarter of section thirty-one, in township five, range five, in the Marietta land district, in the state of Ohio, according to the directions of the said last will and testament; upon which relinquishment, in the manner directed by the Secretary of the Treasury of the United States, the West half of the said quarter section, heretofore relinquished to the United States by the said Executors, shall revert to, and become vested in, the heirs or devisees of the said John Ferrell, as fully as if the same had not been so relinquished.

Approved—March 3, 1825.

*AN ACT* for the relief of Mary Miller, administratrix of Amos Miller, deceased.

*Be it enacted, &c.* That the Secretary of the Treasury be, and he is hereby authorized, to pay to Mary Miller, administratrix of Amos Miller, deceased, out of any money in the Treasury, not otherwise appropriated, the sum of four hundred and fifty dollars, the value of a keel boat impressed into the service of the United States, in the autumn of eighteen hundred and twelve, and not returned, belonging to the estate of said Amos.

Approved—March 3, 1825.

*AN ACT* for the relief of Thomas R. Broome.

*Be it enacted, &c.* That Thomas R. Broome be, and he hereby is, released from the payment of the sum of two hundred and sixty-two dollars, being part of a judgment obtained against him by the United States, in the Circuit Court of the United States, for the Fourth Circuit, in and for the District of Maryland, at the December term thereof, in the year one thousand eight hundred and twenty-four.

Sec. 2. *And be it further enacted,* that the proper accounting officers of the Treasury Department be, and they are hereby, authorized to settle the account for forage of the said Thomas R. Broome, on principles of equity, by allowing him a credit on the judgment obtained against him in the District Court of the United States, for the sum actually paid by him for forage.

Approved, March 3, 1825.

*AN ACT* for the relief of Ebenezer Averill.

*Be it enacted, &c.* That the Secretary of the Treasury be, and he is hereby, directed to pay, out of any money in the Treasury, not otherwise appropriated, to Ebenezer Averill, the sum of seventy dollars, for pasturing horses for a corps of Artillery in the service of the United States, and for fences used for fuel, in the fall of eighteen hundred and twelve, by the United States' troops.

Approved—March 3, 1825.

*AN ACT* for the relief of Elias Glen.

*Be it enacted, &c.* That the Secretary of the Treasury be, and he is hereby, authorized, to pay to Elias Glen, the sum of one hundred dollars, out of any moneys in the Treasury, not otherwise appropriated, in full for his services in taking depositions, at the instance and request of the late Secretary of the Navy.

Approved—March 3, 1825.



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*AN ACT to establish certain Post Roads, and to discontinue others.*

*Be it enacted, &c.* That the following Post Roads be established :

IN MAINE.

From Camden to Vinalhaven.  
From Portland, by Cumberland, Walnut Hill, in North Yarmouth, Pownal, Durham, Lisbon Four Corners, Lisbon Little River Village, Bowdoin, Litchfield, and Hallowell, to Augusta; and that the present post road from Freeport to Bowdoin be discontinued.  
From Rumfordpoint to Andover, in the county of Oxford.  
From Portland through Westbrook, Falmouth, Gray, New Gloucester, Portland, Minot, Turner, Livermore, Jay, Wilton, to Farmington.  
From Bangor, by Orino, Birch Steam Settlement, Kilmarnock, Maxfield, Siboois, Piscataquois, Passamaduko, Sunkhasse, and Edington, to Bangor.  
From Bangor to Houlton Plantations.  
From Anson, by Embden and Concord, to Bingham.  
From Craig's Mills to Otisfield.  
From the Great Falls in Berwick, by Berwick and South Berwick, Elliott and Kittery, to Portsmouth, in the state of New Hampshire.  
From Paris to Augusta, through Buckfield, the South part of Hartford, and the North part of Turner, and through Wayne and Winthrop.

IN NEW HAMPSHIRE.

From Andover and Grafton Turnpike, by Andover, Danbury, Grafton, Orange, Canaan, and Lime, to Orford.  
From Dover, by Rochester, Milton, Wakefield, Ossipee East of the Lake, and Eaton, to Conway.  
From Newport, by Croydon and Grantham, to Lebanon.  
From New Ipswich, through Peterborough, to Hancock.

IN VERMONT.

From Manchester, by Arlington, to Cambridge in New York.  
From St. Alban's, by Sheldon, and Enosburg, to Berkshire.  
From West Poultney, by Hampton, to Fairhaven.  
From Middlebury, in Vermont, to Bridport, Chimney Point, Lumber Point, and Moriah Post Office, to Elizabethtown, in the State of New York.  
From Danville, through Walden, Hardwick, Greensborough, Craftsbury, Kelly-vale, and Montgomery, to Berkshire.

IN CONNECTICUT.

From Southbridge, in Massachusetts, by the Presbyterian Meeting House, in the second society in Woodstock, by Eastford Society, in Ashford, Chaplin, Windham, Franklin, to Chelsea Landing, in Norwich, Connecticut.  
That the mail from Norwalk to Bridgeport, shall pass from Kellogg's Mill, through the village of Millriver, to the village of Fairfield, in Connecticut.

IN MASSACHUSETTS.

From Boston, by Bolton, Sterling, Princeton, Barre, Shutesbury, Leveret, and Sunderland, to Bloody Brook.  
From Worcester to Boilestown, Sterling, Lancaster, Harvard, Littleton, Westford, Chelmsford, to the East Chelmsford Post Office, Massachusetts.  
From Lancaster, by Sterling, Princeton, Hubbardstown, Petersham, New Salem, Wendell, and Montague, to Greenfield; and that the Post road from Springfield, in Massachusetts, to Stafford, in Connecticut, be discontinued.

IN NEW YORK.

From Chitteningo to Fayetteville.  
From Oxford, by Macdonough and German, to Cincinnati.  
From Schenectady, by Alexander's Bridge, to Ballston.  
From the Albany and Schenectady turnpike, by the Ballston turnpike, to Alexander's Bridge.  
From Mamakating, by Neversink Falls, to Colchester.  
From the village of Seneca Falls, to the town of Romulus, in the county of Seneca.  
From Syracuse to Tully.  
From Coopertown to Richfield Springs.  
From Esperance, by Eaton's Corners, Duanesburg, and Minaville, to Amsterdam.  
From Eaton's Corners, Duanesburg, Princetown, Rotterdam, to Schenectady.  
From the village of Oswego, through Newark, Berkshire and Virgil, to the village of Cortland in Cortland county.  
From Watertown, by Adams and Mansville, to Sandy Creek, and from thence to Richland, Union Square, Colosse, Central Square, Cicero and Salina, to Syracuse.  
From Pike, by Eagle, to China.  
From Hamburg, by Eden and Collins, to Perrysburg.  
From Fredonia, by Gerry and St. Clairsville, to Jamestown.  
From Murray, by Clarendon and Byron, to Batavia.  
From Glines to Barr.  
From Catskill, by Hunter, to Lexington, instead of going from Lexington to Lexington Heights.

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From Nahum Daniel's, in Russia, up West Canada Creek Road, by John Graves', to Trenton.  
From Friendship, by the South Branch of Van Campens' Creek, and the Little Genessee Creek, to Ceres-town, Pennsylvania.  
From Unadilla, by Guilford, to Norwich.  
From Otseic, by Linklean, to German.  
From the village of Geneva, in the county of Ontario, through the village of Vienna, to the village of New-ark, on the Erie canal.  
From the village of Pen Yan, in the county of Yates, to the village of Yatesville, and through the town of Middlesex, to Rushville.  
From Middlesex, to Italy; and thence through the South part of Italy, and the town of Jerusalem, to Pen Yan.  
From Elmira, in New York, through Southport, up Seely's Creek, through Wells and Jackson, to Mansfield, in Pennsylvania.  
From Dansville, by Allen, to Angelica.  
From Angelica, by Orensburg, Caneadea, Hume, Pike, and Ganesville-centre road, to Warsaw.  
From Angelica to Ischua.  
From Pultney, by Jerusalem, to Pen Yan.  
From Clarkson, by way of Sweden, Bergen, Leroy, and Covington.  
From Central Square to Oswego Falls.  
From Locke, by Genoa to King's Ferry Post Office.  
From Aurora to Holland, in the county of Erie.  
From Unadilla village, through Guilford, to Norwich village.  
From Peekskill, by Somers and Salem, to Ridgfield, Connecticut.  
From Chester, by Craigsville, Otterkill, and Little Britain, to Montgomery.  
From Harpersfield, by Davenport, Milfordsville, Lawrenceville, Noblesville, and Pittsfield, to New Berlin.  
From Vienna, in Phelps, to Newark.  
From Fullrem's Basin to Penfield.  
From Hartland, by Somerset, to Kempsville.  
From Oneida Castle, on the Seneca Turnpike, the most direct highway to Rome; thence, along the state road and Canal Turnpike, to the post road leading from Utica to Sackett's Harbor.  
From Elmira, through Southport, Wells, Jackson, and Sullivan, to Mansfield, in Pennsylvania.  
From the Meeting-house in the town of Lima, by Norton's mills, to the village of Pittsford, in the county of Monroe.  
From the village of Seneca Falls, to intersect the Geneva and Newburgh mail route at the Post Office of Romulus.  
Also, from Lockport, by Tuscarora Indian village, to Manchester, at the Niagara Falls in New York.  
From Bishop's Corners, in the town of Granville, to the Post Office in the town of Hartford; and from thence to the Post Office in the village of Sandy Hill, in the state of New York.  
From Rochester, in the county of Monroe, by the way of Webster's mills, and by the Brick Meeting House in Avon to Geneseo, in the county of Livingston.  
From Scottsville on the River Road to Rochester, in the county of Monroe.  
From Geneseo to the York Post Office, by William Landon's Four Corners; and from York Post Office, by Fowlersville, to Caledonia, Livingston county.  
From Batavia, by way of Alexandria, Attica, and Thompson's Mills, in Sheldon, and to the Little Lake Settlement in China, all in Genessee county.  
From Covington, by way of Middlebury Academy, Warsaw, and Gainesville, in Genessee county, to the town of Pike, in Allegheny county.  
From New Brunswick, New Jersey, by way of Somerville, Pluckemin, Peapack, Chester, and Handly, to Newton.

IN PENNSYLVANIA.

From Wellsborough, by Cowdersport and Smithport, to Warren.  
From Pennsborough, by Webster's, Hill's, and Edred's, to Meansville.  
From Williamsport, up the Lycoming Creek, through Canton, Troy, Columbia, Wells, and Southport, to Elmyra, in New York.  
From Tunkhannock, through Windham, Eaton, Asylum, and Monroe, to Meansville.  
From Meansville, up Towanda creek, through Monroe and Franklin, to Jacob Grantier's in Canton.  
From Millersburg, by Berrysburg, to Graztown.  
From Bedford, by the way of Backstown and Newry, to Blair's Gap.  
From Trumbowersville, by Spinnerstown, Upper Milford, and Millerstown, to Braining's in Lehigh county.  
From Franklin to Warren.  
From Columbia, by Marietta, to Middletown.  
From Mount Pleasant, by Digman's Turnpike, to Lackawaxen, on the Owego and Milford turnpike.  
From Easton, by Stockerstown, Roscommon, and Snidersville, to Stroudsburg.  
From Fogelsville, through Kleinsville, to Hamburg.  
From Bethlehem to Mauch Chunk.  
From Bellefonte, by Karthaus, Gillett's, and Smithport, to Hamilton, in New York.  
From Jefferson, by Carmichaeltown, and Masontown, to New Geneva.  
From Maytown to Marietta, in Lancaster county.  
From Ebensburg, through Loretto and Mount Pleasant, to Philipsburg.  
From Belmont through Harmony, Lanesville, Windsor, and Colesville, to Bainbridge.  
From Bloomsburg, in Columbia county, by way of Fishing Creek, to Columbus, in Luzerne county.  
From Allentown, in the county of Lehigh, by the way of Krauss' Bridge, Balliet's, the Water Gap, and Lehigh-ton, to Mauch Chunk, in the county of Northampton.

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From Orwigsburg, by Schuylkill Haven, Friedensburg, Pine Grove, and Stumpstown, to Jonestown.

From Indiana to Barnett's, in Jefferson county, and to discontinue the post route between Indiana and Bedford.

IN DELAWARE.

From Laurel, by Cannonsferry, Northwest Fork Bridge, and Hunting Creek, to Easton.

From Smyrna, in Kent county, Delaware, to Church Hill, in Queen Ann's county, in Maryland, via Millington, (late Head of Chester) to Saddler's Cross Roads, in said state.

IN MARYLAND.

From Newton Trap, by Burkittsville and Crampton, to Sharpsburg.

From the village of Harford, in Harford county, Maryland, by Priest Ford, Darlington, and Dublin, in said county, to Conewingo, in Cecil county, Maryland.

From Conewingo, in Cecil county, Maryland, to Lancaster, in Pennsylvania.

From Belle Air, in Harford County, Maryland, to Amos Carman's Public House, in said county.

From Cumberland, by Cresapsburg, to Western Port, and thence, to the Yough Green Glades, in Allegany county.

IN VIRGINIA.

From Liberty, by Chambless' Store, to Taylor's Store.

From Middlebourne, by Salem, to Clarksburg.

From Harrisonburg to Franklin.

From Culpeper Court House to Orange Court House.

From Hagen's Store, in Preston county, to Smithfield, on the Cumberland road.

From Hagen's Store, Crab Orchard, Kingwood, by Armstrong's Cross Roads, Martin's Gladly Creek, to Billsburg.

From Lewisburg, by Frankford, to Huntersville.

From Monro Court House, crossing New River at Henry Ballinger's Ferry, to John Pack's.

From Nicholas Court House to the mouth of Gauly River.

From Fincastle, by Newcastle, Giles Court House, Peterstown, Union, Sweet Springs, Price's and Covington, to Fincastle.

From Leesville to Pittsylvania Old Court House.

From Statesburg, by Halifax Court House and Hagood's Store, to Danville.

From Lovingson, by Mill Grove, to Steele's Tavern.

From Lexington, by Pedlar's Mills, to Lynchburg, and to return by Pedlar's Mills, the Narrows and the Forks of James River, to Lexington.

IN NORTH CAROLINA.

From Ashville, North Carolina, by Philip Britain's, Charles C. Carson's, Eastaloe Gap, M'Kenney's, in Laraway, by the High Shoals, Little River Keowee, and Boonsford, to Pendleton Court House, South Carolina.

From Raleigh, by little Nat. Jones', to Haywood.

From Statesville, Iredel county, to Wilkesborough, by Mount Pisgah.

From Raleigh, by Fishdam, Stagville, and Mount Tirza, to Roxborough.

From Lincolnton, by Jacob Fullenwiler's, Ervinsville, and Mooresborough, to Rutherfordton.

From Elizabeth, by Beatty's Bridge, Long Creek Bridge, and Milton, thence back to Elizabeth.

From Onslow Court House to John A. Everett's.

From Wadesborough to Salisbury, in North Carolina.

From Pittsborough, by Joseph L. Brook's, William Lindley's store, Jehu Carter's, Allbright's store, Long's store, Hadley's Mills, Mabin's store, to Greensborough.

From Charlotte, by Hopewell Church, to Beattysford.

From Salem, by Clemontstown, to Mocksville.

From Raleigh, by Smithfield, Wanesborough, Spring Bank, Spring Hill, Hookerton, Kirston, to Newbern.

From Murfreesborough to Windsor.

IN SOUTH CAROLINA.

From Hamburg, by Alexander Stuart's, John Middletons', Richard Park's, Edmund Acheson's and Ewell Hills, to Abbeville.

From Columbia, by M'Cord's Ferry, to Nelson's Ferry, on the Santee, intersecting the main route between Camden and Charleston.

From Waterborough to the fork of the Saltcather, St. Bartholomews.

From Cambridge, by Scuffletown, Queensboro', and Golden Grove, to Greenville Court House.

IN GEORGIA.

From Creek Agency to Tallahassee, in Florida.

From Houston Court House, by Knoxville, Newman, and Fayetteville, to De Kalb Court House.

From Macon, by Forsyth and Hamilton, to Covington.

From Athens to Lawrenceville, in Gwinett county.

IN TENNESSEE.

From Morgan Court House, by Kingston, to Athens.

From Washington to Athens.

From Columbia, by Hurt's Cross Roads, Williamsville, at Rock Spring, Fishing Ford, on Dutch River, Farmington, Monroe's, and Fayetteville, to Pulaski.

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From Hardinsville, by M'Nairy Court House and Hardiman Court House, to Tipton Court House.  
From Jackson, by Harrisburg, to Dyer Court House.  
From Pulaski, by Lawrenceburg, to Waynesboro'.  
From Reynoldsburg, by Paris, Weakly Court House, to Obion Court House.  
From Munroe to Tompkinsville, Kentucky.  
From Murfreesborough, by Henderson's, Toliver's Store, Beech Grove, Stone Fort, Hillsborough, Pleasant Plains, Caldwell's Bridge, to Jasper, or Marion Court House.  
From Jackson, by Haywood Court House, and Tipton Court House, to Daniel Treadwell's, on Big Creek.  
From Reynoldsburg to Dover.  
From Huntingdon, by Gibson Court House, to Dyer Court House.  
From Hardinville to Florence, Alabama.

IN KENTUCKY.

From Frankfort, by Gist's, Stonnet's, Yeocum's, and Macsville, to Springfield.  
From Pike Court House to Tazewell Court House, in Virginia.  
From Frankfort, by Christianburgh and Robert's Store, to Lynchburgh.  
From Russellville, in Kentucky, by Elkton, Red River Forge, to Clarksville, in Tennessee, thence to Yellow Creek Furnace.  
From Shelbyville to Newcastle, instead of going from Frankfort to Newcastle, and from Middletown to Newcastle.  
From Greensburg to Munfordville, by way of Somerville and Holderman's Iron Works.  
From Hopkinsville, by Lindsey's Mill, Flat Lick, Dover and Paris, to Huntington, in Tennessee.  
From Eddyville, by Wadsworth, to Paris, in Tennessee.  
From Hardinsburg to Rome, in the state of Indiana, by Stephensport.  
From Smithland, by the mouth of Tennessee River, and M'Cracken Court House, and Mayfield, to Paris, in Tennessee.  
From Glasgow to Edmonton, in the county of Barren.  
From Glasgow to Prewitt's Knob, in Barren county.  
From Augusta, by Woodward's, to Mary's or Claysville.  
From Louisville, by Transylvania, Westport, and Lynchburg, to Bedford.

IN OHIO.

From Chillicothe, by Greenfield, Leesburg, and Wilmington, to Lebanon.  
From Greenville to Shanesville, in Mercer county.  
From Lebanon, by Franklin, Germantown, Winchester, and Eaton, to Connersville.  
From Mount Vernon to Marion.  
From Hudson, by Boston, Richfield, and Hinckley, to Brunswick.  
From Parkman, in the county of Geauga, to Batavia, Huntsburgh, Montville, Thompson, to Unionville Post Office, and return by Trumbull, Windsor, and Mesopotamia.  
From Warren, by Canfield and New Lisbon, to Steubenville.  
From Ashtabula, on the Turnpike, by Warren and Youngstown, to Poland.  
From Cadiz, by New Rumley, and New Hagerstown, to Centreville.  
From Warren, by Vienna, Brookfield, Hartford, Vernon, Kinsman, Williamsfield, Andover, Pierpont, and Munroe, to Salem.  
From Warren, by Rosetta, Mecca, Green, Lebanon, and Lenox, to Jefferson, and return by Wayne, Gustavus, Johnstown, and Fowler, to Warren.  
From Medina, by Liverpool and Grafton, to Elyria.  
From Wooster to Tallmadge.  
From Gallipolis to Burlington, in Lawrence county, and to return by Guindotte and Mercer's Bottom, in Virginia.  
From Morristown, by Barnesville and M'Connellsville, to Bristol.  
From Mansfield, by Busyrus, to Upper Sandusky.  
From New Haven to Tiffin.  
From Lower Sandusky to Portland.  
From Jackson Court House to Portsmouth.

IN INDIANA.

From Rushville, by Connersville, Brownsville, Liberty, and from thence by Oxford and Hamilton, in Ohio.  
From Jackson Post Office, by New Lexington, New Washington, and Bethlehem, to Newcastle, in Kentucky.  
From Winchester, by way of Noblesville, to Indianapolis.  
From Indianapolis to Crawfordsville.  
From Princeton, by Petersburg, Washington, Bloomfield, Bloomington, and Martinsville, to Indianapolis.  
From Rockport, by Portersville, to Washington.

IN MISSISSIPPI.

From Columbus, by the Choctaw Agency, Jackson, Port Gibson, Greenville, Washington, Natchez, and Woodville, to St. Francisville, in Louisiana.  
From Woodville, by Liberty, Holmesville, Columbia, Augusta, and Winchester, to St. Stephen's, in Alabama.  
From Jackson, by Copiah Court House, Monticello, Columbia, and Fori's, to Shieldsborough.  
From Jackson, by Wicksbury, Warrenton, and the Rocky Springs, to Port Gibson.  
From Washington, by Meadville, Monticello, and Monroe, to Augusta.  
From Greenville to Petit Gulf.

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From Columbus, by Hamilton, and the Cotton Gin Port, to the Choctaw Agency.  
From Augusta, by Leaf River, and Green Court House, to Jackson Court House.  
From Woodville to Pinckneyville.

Discontinue all other post roads in said state, except those to the seats of Justice, so soon as the same can be effected consistently with existing contracts.

IN ILLINOIS.

From Springfield to Lewistown.  
From Carmi, by Fairfield, to Vandalia.

IN MISSOURI.

From New London, on the Mississippi River, by Fayette, to Franklin, on the Missouri river.  
From St. Louis, by St. Ferdinand, to St. Charles.  
That the Post Road now established, on the south side of the Missouri river, from St. Louis to Boonville, shall pass by the seat of Justice of the county of Gasconade.

IN ALABAMA.

From Dale to Marengo.  
From Greenville to Montezuma.  
From Montgomery to Coosawda.  
Discontinue the Post route from Augusta, by Fort Jackson, to Coosawda.  
And that the Postmaster General be authorized, if by him thought expedient, to cause a mail to be transmitted by water from the city of Mobile to the city of New Orleans.  
From Bellefonte, Jackson county, by Gunter's Landing, to Blountsville.  
From Athens, Limestone county, by Eastport, to Florence.

IN ARKANSAS.

From Hempstead Court House, by Long Prairie, to Natchitoches, Louisiana.  
From Little Rock to Monroe, Louisiana.  
And that the present route from Clark Court House, to Natchitoches, Louisiana, be discontinued.  
Sec. 2. *And be it further enacted*, That all post routes, which, hereafter, within the term of three successive years, fail to yield one fourth of the expense incident to its establishment, shall be discontinued by the Postmaster General, unless in cases where it may be necessary as a connection or continuance of a route or routes; *Provided, also*, That this section shall not be so construed as to deprive the seat of Justice in each County of one mail going to and from said town.  
Sec. 3. *And be it further enacted*, That the mail routes from Morgantown, by Crab Orchard, Kingwood, Armstrong's Cross Roads, Martin's Gladly Creek, Billsburg, Leedsville, Beverly, Traveller's Repose, Huntersville, and Frankfort, to Lewisburg: from Hagen's Store to Morganstown: from Lewisburg to Nicholas Court House, to Kanaway Court House, in Virginia, be, and the same are hereby discontinued.  
Sec. 4. *And be it further enacted*, That the Postmaster General may, whenever he deems it expedient, cause the mail to be transported from St. Charles, in the state of Missouri, to Franklin, in said state, by the seat of Justice of Callaway and Boone counties, instead of the route now established by law; and may, also, cause the mail to be transported from Franklin to Liberty, in Clay county, by the seats of Justice of the counties of Saline, Lillard, and Ray, instead of the route now established by law.

Approved, March 3, 1825.

*AN ACT to provide an additional appropriation to complete the Public Road from Pensacola to St. Augustine, in the Territory of Florida.*

*Be it enacted, &c.* That, for the completion of the Public Road, directed to be opened from Pensacola to St. Augustine, in the Territory of Florida, the sum of eight thousand dollars be, and the same is hereby, appropriated, to be paid out of any money in the Treasury, not otherwise appropriated.

Approved, March 3, 1825.

*AN ACT declaring the consent of Congress to an act of the General Assembly of Virginia, therein mentioned.*

*Be it enacted, &c.* That the assent of Congress is hereby given and declared to an act of the General Assembly of Virginia, entitled "An act incorporating a company for the purpose of improving the navigation of the Appomattox river, from Pochahontas Bridge to Broadway;" passed on the eighth day of December, one thousand eight hundred and twenty-four.

Approved, March 3, 1825.

*AN ACT making further appropriations for the Military Service for the year one thousand eight hundred and twenty-five.*

*Be it enacted, &c.* That the following sums be, and the same are hereby appropriated, to wit:  
For pay of the Superintendent of Indian Affairs at St. Louis, and the several Indian agents, as allowed by law, twenty-eight thousand dollars.  
For pay of the sub-agents, including the two on the Missouri, as allowed by law, thirteen thousand dollars.  
For presents to Indians, as authorized by act of one thousand eight hundred and two, fifteen thousand dollars.  
For contingent expenses, ninety-five thousand dollars.  
For payment of the amount of the annuity due to the Cherokee nation, under the treaty of twenty-fourth October, one thousand eight hundred and four, which was ratified during the last session of Congress, and for which no payment or appropriation has heretofore been made, twenty thousand dollars.



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For payment of said annuity for the year one thousand eight hundred and twenty-five, according to the stipulations of said treaty, one thousand dollars.

For carrying into effect so much of the fourth article of the treaty of the eighth of January, one thousand eight hundred and twenty-one, between the United States and the Creek nation, as relates to the compensation due to the citizens of Georgia by the Creek nation, it being for the payment of the fourth instalment, which will be due on said claims in one thousand eight hundred and twenty-five, according to the stipulations of said treaty, twenty-three thousand dollars.

For defraying the expenses of holding treaties with the Sioux, Chippeways, Menomenees, Sauks, Foxes, &c. as per estimate of Gen. Clarke, for the purpose of establishing boundaries and promoting peace, &c. between said tribes, ten thousand four hundred dollars.

For arrearages prior to the first of July, one thousand eight hundred and fifteen, twenty thousand dollars.

For arrearages from first July, one thousand eight hundred and fifteen, to first January, one thousand eight hundred and eighteen, four thousand dollars.

For payment of claims against the Osages by citizens of the United States, three thousand five hundred and eighty-two dollars and fifty cents, being the balance of a former appropriation which has passed to the surplus fund.

For payment of the annuity to the Sock and Fox tribes, as provided for by the third article of the treaty with those tribes, dated fourth August, eighteen hundred and twenty-four, one thousand dollars.

For payment of the annuity to the Ioway tribe of Indians, as provided for by the second article of the treaty with that tribe, dated fourth August, eighteen hundred and twenty-four, five hundred dollars.

For payment of five hundred dollars to each of the four head Chiefs of the Quapaw tribe, agreeably to the second article of the treaty with said tribe, dated the fifteenth November, eighteen hundred and twenty-four, two thousand dollars.

For payment of the annuity provided for by the same article of the said treaty, one thousand dollars.

For the purchase of provisions for six months, as provided for by the fifth article of said treaty, fifteen thousand three hundred and seventy-two dollars.

For furnishing facilities for the transportation of said Indians, as provided for by the aforesaid fifth article of said treaty, one thousand dollars.

For the pay of a sub-Agent or Interpreter, to reside among said Indians, as is provided for by the same article of said treaty, five hundred dollars.

For the payment of the annuities provided for by the second and third articles of the treaty of the twentieth of January, eighteen hundred and twenty-five, with the Choctaw nation of Indians; and also of an annuity to Robert Cole, provided for by the tenth article, twelve thousand and one hundred and fifty dollars.

For the payment of the claims of the Choctaw nation, for services on the Pensacola campaign, and other claims of the Choctaw Indians, as provided for by the sixth and eighth articles of said treaty, sixteen thousand nine hundred and seventy-two dollars and fifty cents.

For the salary of the Agent provided for by the ninth article of said treaty, fifteen hundred dollars.

For carrying into effect the provisions of the ninth article of the said treaty, the provisions of the third article for the survey and sale of the fifty-four sections of land therein referred to; and for running the line defined in the first article, and any other expenses arising out of the execution of the said treaty, ten thousand dollars.

Towards the execution of any treaty that may be ratified by the United States, prior to the next session of Congress, with the Creek Indians, for the extinguishment of their title to lands in Georgia and Alabama, and for the removal of said Indians west of the Mississippi, two hundred and fifty thousand dollars.

Approved—March 3, 1825.

*AN ACT* confirming an act of the Legislature of Virginia, entitled "An act incorporating the Chesapeake and Ohio Canal Company," and an Act of the state of Maryland, confirming the same.

*Be it enacted, &c.* That the act of the Legislature of the state of Virginia, entitled "An act incorporating the Chesapeake and Ohio Canal Company," be, and the same is hereby, ratified and confirmed, so far as may be necessary for the purpose of enabling any company, that may hereafter be formed by the authority of said act of incorporation, to carry into effect the provisions thereof, in the District of Columbia, within the exclusive jurisdiction of the United States, and no further.

Sec. 2. *And be it further enacted,* That, should the state of Virginia or Maryland desire, at any time, to avail itself of the right secured to it, by the twenty-first section of the act aforesaid, to take and continue a canal, from any point of the Chesapeake and Ohio Canal, to any other point within the territory of the District of Columbia, through the same, on application to the President of the United States, by the Executive of the state, the President is authorized and empowered to depute three skillful Commissioners of the United States' Corps of Engineers, to survey and examine so much of the route of such canal as may affect, in any manner, the navigation of the Chesapeake and Ohio Canal. The said Commissioners, or a majority of them, shall ascertain as far as practicable, whether the canal proposed to be constructed by the state aforesaid will injure or impede the navigation of the Chesapeake and Ohio Canal, and report to the President of the United States the facts and reasons on which they may ground their judgment thereupon; which report shall be submitted to the Congress of the United States, at their session next ensuing the date thereof, for their decision thereon; and, if Congress shall be of opinion that the said canal may be cut in the manner proposed as aforesaid, without impeding or injuring the navigation of the Chesapeake and Ohio Canal, the same shall be conclusive thereon.

Approved—March 3, 1825.

*AN ACT* making appropriations for certain Fortifications of the United States, for the year one thousand eight hundred and twenty-five.

*Be it enacted, &c.* That the following sums be, and the same are hereby, appropriated, to wit: For fortifications to each specifically as follows:

- For Brenton's Point, sixty thousand dollars;
- For New Utrecht Point, forty thousand dollars;
- For Fort Delaware, seventy-one thousand six hundred and seventy-nine dollars and fifty cents;
- For Fort Monroe, one hundred thousand dollars;

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For Fort Calhoun, seventy thousand dollars ;  
For the Fort at Mobile Point, one hundred thousand dollars ;  
For the Fort at Chef Menteur, one hundred thousand dollars ;  
For Fort Jackson, on the Mississippi, one hundred thousand dollars ;  
For a Fort at Beaufort, in North Carolina, thirty thousand dollars ;  
For Forts at Cape Fear, fifty thousand dollars ;  
For repairs and contingencies, eight thousand three hundred and twenty dollars and fifty cents.  
For the preservation of the Islands in Boston harbor, necessary to the security of that place, fifty-two thousand nine hundred and seventy-two dollars and fifty-six cents: *Provided, however,* That the right of soil of said Islands shall be first vested in the United States.  
For the armament of new fortifications, one hundred thousand dollars.

Approved—March 2, 1825.

*AN ACT to authorize the President of the United States to cause a road to be marked out from the Western frontier of Missouri, to the confines of New Mexico.*

*Be it enacted, &c.* That the President of the United States be, and he hereby is, authorized to appoint Commissioners to mark out a road from the Western frontier of the state of Missouri, to the boundary line of the United States, in the direction to Sante Fe, of New Mexico: *Provided,* That the said Commissioners shall first obtain the consent of the intervening tribes of Indians, by treaty, to the marking of the said road, and to the unmolested use thereof to the citizens of the United States, and to the Mexican Republic.

Sec. 2. *And be it further enacted,* That the President of the United States be, and he hereby is, authorized to cause the marking of the said road to be continued from the boundary line of the United States to the frontier of New Mexico, under such regulations as may be agreed upon for that purpose between the Executive of the United States, and the Mexican Government.

Sec. 3. *And be it further enacted,* That the sum of ten thousand dollars be, and the same hereby is, appropriated, to defray the expenses of marking the said road; and the further sum of twenty thousand dollars, to defray the expenses of treating with the Indians, for their consent to the establishment and use thereof; the said sums to be paid out of any money in the Treasury, not otherwise appropriated.

Approved—March 3, 1825.

*AN ACT fixing the place for holding the Circuit and District Courts of the United States for the Southern District of New York.*

*Be it enacted, &c.* That the Circuit and District Courts of the United States for the Southern District of New York, shall be holden in the City Hall, in the city of New York, as heretofore, until otherwise ordered by law, or until the Secretary of the Treasury, on the representation of the Judges of said Courts, respectively, shall direct further or other accommodation to be provided for said courts, or either of them: *Provided,* The competent authority allow to said Courts the exclusive use of some suitable apartment for holding the same in the said City Hall: *And provided,* That the District Court of the United States for the said Southern District of New York may continue to hold its sessions where the same are now held, until the last of May, which shall be in the year one thousand eight hundred and twenty-six; any thing in this act contained to the contrary notwithstanding.

Approved—March 3, 1825.

*AN ACT further to amend the act authorizing payment for property lost, captured, or destroyed by the enemy, while in the military service of the United States, and for other purposes; passed ninth April, one thousand eight hundred and sixteen.*

*Be it enacted, &c.* That any person having a claim for a building destroyed by the enemy during the late war, under the ninth section of the act to which this is an amendment, and of the act to amend the same, passed the third of March, one thousand eight hundred and seventeen, which shall have been presented to the Commissioner of Claims, appointed under the act first aforesaid, at any time before the tenth of April, one thousand eight hundred and eighteen, and which was not paid under said acts, nor finally rejected by said Commissioner, may, within nine months hereafter, present the same, with the evidence to support it, to the Third Auditor of the Treasury, for examination and adjustment; and if he shall be satisfied the building or buildings for which damages are claimed, was, at the time of its destruction, occupied by order of any agent or officer of the United States, as a place of deposit for military or naval stores: or as barracks for the military forces of the United States, he shall proceed to assess the damages, and certify the amount for payment, in the way pointed out in the act first above referred to, which shall be immediately paid, out of any money in the Treasury, not otherwise appropriated: *Provided,* That, if the Auditor shall be satisfied the evidence before him is insufficient to enable him correctly to decide between the United States and the claimant, he may, on giving notice to the claimant, cause other evidence to be taken: *And provided, also,* That no payment shall be made under the provisions of this act, where the property destroyed was occupied under a contract with the owner, and at the risk of such owner.

Sec. 2. *And be it further enacted,* That the amount which shall appear to have been paid to the owners, as rent, for the use or occupation of their property, shall be deducted from the amount directed to be paid to them under this act.

Sec. 3. *And be it further enacted,* That in case the whole amount of claims presented, and allowed, under this act, shall exceed the sum of two hundred and fifty thousand dollars, then, and in that case, the claimants shall, respectively, receive only their rateable proportion of the sum of two hundred and fifty thousand dollars, to be liquidated by the said Auditor in the adjustment of the amount to be received by such claimants, respectively.

Approved—March 3, 1825.

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*AN ACT to authorize the sale of unserviceable Ordnance, Arms, and Military Stores.*

*Be it enacted, &c.* That the President of the United States be, and he is hereby, authorized to cause to be sold, any ordnance, arms, ammunition, or other military stores, or subsistence, or medical supplies, which, upon proper inspection or survey, shall appear to be damaged, or otherwise unsuitable for the public service, whenever, in his opinion, the sale of such unserviceable stores will be advantageous to the public service.

*Sec. 2. And be it further enacted,* That the inspection or survey of unserviceable stores shall be made by an Inspector General, or such other officer or officers as the Secretary of War may appoint for that purpose; and the sales shall be made under such rules and regulations as may be prescribed by the Secretary of War.

Approved—March 3, 1825.

*AN ACT making an additional appropriation for defraying the expenses of bringing to the seat of Government, the votes for President and Vice President of the United States.*

*Be it enacted, &c.* That there be, and there hereby is, appropriated, out of any money in the Treasury, not otherwise appropriated, the sum of two thousand nine hundred and sixty-nine dollars and fifty cents, for the payment of the expenses of bringing to the seat of Government the votes for President and Vice President of the United States, in addition to the sum of three thousand three hundred dollars, heretofore appropriated for the same object.

Approved—March 3, 1825.

*AN ACT for the relief of Peter Yandes.*

*Be it enacted, etc.* That the proper accounting officers of the Treasury Department be, and they are hereby, authorized and directed to pay to Peter Yandes one hundred and twenty dollars, the value of a horse lost by said Yandes while engaged in the service of the United States, by towing a boat to Ogdensburgh during the late war, and that the same be paid out of any money in the Treasury, not otherwise appropriated.

Approved—March 3, 1825.

*AN ACT for the relief of Craven P. Luckett, and William Reynolds.*

*Be it enacted, etc.* That the proper officers of the Treasury be, and they are hereby authorized and required to allow and pay unto Craven P. Luckett, one of the Commissioners for ascertaining the rights of persons claiming lands in the territory of Florida, the sum of five hundred dollars, as a full compensation for having brought to the seat of Government the report of the said Commissioners, and to William Reynolds the sum of five hundred dollars, as a full compensation for having brought to the seat of Government the report of the Commissioners for the settlement of land claims in East Florida; and the said sums shall be paid out of any money in the Treasury, not otherwise appropriated.

Approved—March 3, 1825.

*AN ACT for the relief of the Representatives of Noel Soileau, deceased.*

*Be it enacted, etc.* That the heirs and legal representatives of Noel Soileau, be, and they are hereby, confirmed in their claim to six hundred and forty acres of land, lying near the Bayou Crocodile, in the Grand Prairie, in the county of Opelousas, in the state of Louisiana; it being the same on which Hilarie Bordelou resided in the year one thousand eight hundred and fourteen: *Provided,* This act shall be considered only as a relinquishment on the part of the United States, and as not operating to the prejudice of any third person.

Approved—March 3, 1825.

*AN ACT for arming the Militia in the District of Columbia.*

*Be it enacted, etc.* That the act of the twenty-third of April, one thousand eight hundred and eight, entitled "An act making provision for arming and equipping the whole body of the Militia of the United States," be, and the same is hereby declared to extend to the District of Columbia; and the President of the United States is hereby authorized and directed to issue arms and military equipments to the Militia of said District under such regulations for the return thereof, as he may deem it proper to prescribe.

Approved—March 3, 1825.

*AN ACT for the relief of Joseph Forrest.*

*Be it enacted, &c.* That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay to Joseph Forrest the sum of two thousand one hundred and thirty-six dollars, for demurrage on the schooner William Yeaton, at the port of Lagaira, not already paid under the award made at Lagaira, in the year eighteen hundred and twelve; and that the said sum be paid out of any money in the Treasury, not otherwise appropriated: *Provided,* That, before any payment shall be made, the said Joseph Forrest shall release the United States from any claim in future, on account of said vessel.

Approved—March 3, 1825.

*AN ACT for the relief of Colonel William Duane.*

*Be it enacted, &c.* That the proper accounting officers of the Treasury Department be, and they are hereby, authorized and directed to settle the claim of Colonel William Duane, and allow him at the rate of three dollars

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and fifty cents [per copy] for one thousand copies of the System of Infantry Discipline, prepared by him, under assurances given by the Secretary of War, deducting therefrom the price for which said copies were sold at auction, by said Duane: *Provided, nevertheless,* That, before the payment of any balance found due to the said Colonel William Duane, the amount or balance of any judgment or judgments obtained against him, by the United States, shall be deducted therefrom.

Sec. 2. *And be it further enacted,* That the balance, if any is found in favor of Colonel William Duane, shall be paid out of any money in the Treasury, not otherwise appropriated.

Approved—March 3, 1825.

*AN ACT for the relief of William Pemberton.*

*Be it enacted, &c.* That there be paid to William Pemberton the sum of fifty-five dollars, out of any money in the Treasury, not otherwise appropriated, in full compensation for the loss of a horse during the late war.

Approved—March 3, 1825.

*AN ACT making an appropriation for the benefit of Joseph Smith, of Alexandria.*

*Be it enacted, &c.* That the proper accounting officers of the Treasury Department pay, out of any money in the Treasury, not otherwise appropriated, to Joseph Smith, of Alexandria, the amount of wages, and dividend of prize money, due to said Smith for the services, during the late war, of his slave Tom, alias Thomas Mitchel, on board the United States' ship the Wasp, and which has not heretofore been paid to him, for the want of an appropriation in the act passed at the last session, entitled "An act for the relief of Joseph Smith, of Alexandria."

Approved—March 3, 1825.

*AN ACT authorizing Noah Webster to import into the United States his work on Languages, at a rate of duty herein specified.*

*Be it enacted, &c.* That Noah Webster, of New Haven, in the state of Connecticut, be, and he is hereby, authorized to import into the United States, for the period of five years, at the same rate of duty as is now imposed upon books in foreign languages, copies of a work prepared by the said Noah Webster, concerning the Origin, History, and Affinities of Languages; also, a Dictionary of the English Language, and a Synopsis of the Principal Elementary Words, in Different Languages.

Approved—March 3, 1825.

*AN ACT to alter the terms of the District Court of the United States in the Western District of Virginia.*

*Be it enacted, &c.* That the terms of the District Court, in and for the Western District of Virginia, instead of the time now fixed by law, shall be holden on the days and at the places hereinafter mentioned, namely: at Staunton, on the last Mondays in March and August; at Wythe Court House on the first Mondays in April and September; at Lewisburg, on the Fridays after the first Mondays in April and September; and at Clarksburg, on the first Mondays of June and November, in each year.

Sec. 2. *And be it further enacted,* That all recognizances, process, suits, and proceedings, of every kind, whether of a civil or criminal nature, commenced or pending in either of said Courts, shall be returned to, proceeded in, and determined at, the terms herein provided for, in the same manner as if the time of holding said Courts had not been changed.

Approved—March 3, 1825.

*AN ACT to authorize the laying out and opening of a Public Road from the St. Mary's River, to the Bay of Tampa, in the territory of Florida.*

*Be it enacted, &c.* That the President of the United States be, and he is hereby, authorized to cause to be opened, in the territory of Florida, a Public Road, commencing at the Bay of Tampa, and pursuing the most direct practicable route to Wanton's, in said territory, and thence, pursuing the most direct and practicable route to Colerain, on the St. Mary's River.

Sec. 2. *And be it further enacted,* That the President be, and he is hereby, authorized to employ the troops of the United States, stationed in Florida, in such manner as he may think proper, in the completion, or assisting in the completion, of said road.

Sec. 3. *And be it further enacted,* That, for defraying the expense of opening said road, the sum of twelve thousand dollars be, and the same is hereby, appropriated, to be paid out of any money in the Treasury, not otherwise appropriated.

Approved—March 3, 1825.

*AN ACT for the relief of Peter Burt.*

*Be it enacted, &c.* That the Secretary of State be, and he hereby is, authorized and required to issue letters patent, in the usual form, to Peter Burt, for his Improved Sounding Machine, upon his complying with all the provisions of the several acts of Congress, relative to the issuing letters patent for inventions and improvements, except so far as the said acts require, on the part of aliens, a residence of two years in the United States.

Approved—March 3, 1825.

*AN ACT for the relief of Stephen Thatcher.*

*Be it enacted, &c.* That, in settling the accounts of Stephen Thatcher, Collector of the Customs of the District

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of Passamaquoddy, in the state of Maine, the Secretary of the Treasury is authorized and required to allow to said Thatcher, the sum of two thousand eight hundred and two dollars and sixty-one cents; which sum is charged said Thatcher in his accounts with the Treasury Department, and claimed by him as a foreign tonnage duty on certain British colonial vessels, which entered in said District in the year eighteen hundred and twenty-two, said Thatcher having admitted them to enter on the payment of the same duties as American vessels.

Approved—March 3, 1825.

*AN ACT respecting the adjournment of the Circuit Court for the District of Columbia.*

*Be it enacted, &c.* That all adjournments of the Circuit Court of the United States for the District of Columbia, heretofore made, or which may hereafter be made, by any one Judge of the said Court, in Court sitting, and in the absence of the other Judges, shall be as valid as if made by all the Judges of the said Court.

Approved—March 3, 1825.

*AN ACT for the relief of Sarah Shillio.*

*Be it enacted, &c.* That the Secretary of the Treasury pay to Sarah Shillio, out of any moneys in the Treasury, not otherwise appropriated, the sum of three hundred and fifty dollars, for a house destroyed in the summer of one thousand eight hundred and thirteen, while in the occupation of the United States' troops; deducting, however, from the above sum, the amount that has been paid for the rent of said house, by an officer of the army of the United States.

Approved—March 3, 1825.

*AN ACT for the relief of Lemuel Wootten.*

*Be it enacted, &c.* That there be paid to Lemuel Wootten, out of any money in the Treasury, not otherwise appropriated, the sum of seven hundred dollars, for a wagon and four horses, with harness, lost in the service of the United States, in the year eighteen hundred and eighteen, deducting therefrom whatever sum may have been paid for the use of said wagon and team.

Approved—March 3, 1825.

*AN ACT for the relief of Moses Plumer.*

*Be it enacted, &c.* That it shall and may be lawful for Moses Plumer, a soldier in the late war, to locate and enter, with the Register of the Land Office for the proper district in the Territory of Arkansas, according to the sectional and divisional lines, any unappropriated quarter section of land within the Military District in said territory; and upon such location and entry being made, it shall be the duty of the Register to issue to the said Moses Plumer a certificate, specifying therein the quarter section so located and entered. And it shall be the duty of the Commissioner of the General Land Office to issue a patent for the land so located and entered whenever the certificate aforesaid shall be presented to him for that purpose: *Provided*, That, before such location and entry shall be made, the said Moses Plumer shall surrender to the Register the patent which he now holds from the United States, for the southeast quarter of section four, of township ten, in range five, west of the tract appropriated for military bounties, in the territory of Arkansas, accompanied by such a release of his interest to the land therein specified, as the Commissioner of the General Land Office shall direct.

Approved—March 3, 1825.

*AN ACT for the relief of Francis Wright, Son, and other heirs of Francis Wright, deceased.*

*Be it enacted, &c.* That the Secretary of War be, and he is hereby, authorized and directed to issue to Francis Wright, Son, and other heirs of Francis Wright, deceased, a military land warrant for one hundred acres of land for Revolutionary services of the deceased, in lieu of a warrant for the same quantity of land which had been issued to the said Francis Wright, Son, and their heirs of Francis Wright, in February, one thousand eight hundred and twenty-four, and which is proven to have been lost before the same was located.

Approved—March 3, 1825.

*AN ACT to change the time of holding the District Court of the United States for the Eastern District of Louisiana.*

*Be it enacted, &c.* That the District Court of the United States for the Eastern District of Louisiana shall be annually holden in the City of New Orleans, on the second Monday of December, instead of the third Monday of November, as now prescribed by law.

Sec. 2. *And be it further enacted*, That all suits, actions, writs, processes, and other proceedings, which now are pending in said District Court, or which are, or may hereafter be, commenced for, or returnable to, the said District Court, on the third Monday of November, as heretofore established, shall be returnable to, heard, tried, and proceeded with, in the said District Court, in the same manner as if the time for holding thereof had not been changed.

Approved—March 3, 1825.

*AN ACT to make Castine a port of entry for ships or vessels coming from beyond the Cape of Good Hope.*

*Be it enacted, &c.* That, from and after the first day of April next, Castine, in the state of Maine, shall be, and is hereby, made a port of entry for ships or vessels coming from beyond the Cape of Good Hope.

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*AN ACT to extend the time for issuing and locating Military Land Warrants to officers and soldiers of the Revolutionary Army.*

*Be it enacted, &c.* That the time limited by the second section of the act approved the twenty-fourth day of February, one thousand eight hundred and nineteen, for issuing military land warrants to the officers and soldiers of the Revolutionary army, shall be extended till the fourth of March, one thousand eight hundred and twenty-seven, and the time for locating the unlocated warrants shall be extended till the first day of October thereafter.

Approved—March 3, 1825.

*AN ACT to authorize the sale of a Section of Land therein mentioned.*

*Be it enacted, &c.* That the Secretary of the Treasury shall be, and he is hereby, authorized to cause to be exposed to public sale, in the same manner other lands of the United States are, the section numbered thirty-four, of the Eleventh Township and Third Range of Townships offered for sale, at Steubenville, Ohio; and, if not so sold, the said section shall be liable to entry in the Steubenville Land Office, as other lands are.

Approved—March 3, 1825.

*AN ACT granting Pensions to James Barker and Zebulon Pike.*

*Be it enacted, &c.* That the Secretary of War be, and he hereby is, directed to place James Barker on the list of Revolutionary pensioners of the United States, at the rate of eight dollars per month, commencing on the fourth day of December, one thousand eight hundred and twenty-four; and that said Barker shall be entitled to receive said pension in the manner provided by law.

Sec. 2. *And be it further enacted,* That the Secretary of War be, and he hereby is, directed to place Colonel Zebulon Pike upon the list of Revolutionary pensioners of the United States, and cause to be paid to him at the rate of twenty dollars per month, commencing on the day the said Zebulon Pike was stricken from the Pension Roll, up to the sixth day of November, eighteen hundred and twenty-four; from which time his pension shall continue.

Approved—March 3, 1825.

*AN ACT for the relief of David Gilmore.*

*Be it enacted, &c.* That a judgment, recovered by the United States against David Gilmore, and others, at the District Court of the United States, holden at Portland, in the District of Maine, on the first Tuesday of June, in the year of our Lord one thousand eight hundred and twenty-four, for the sum of eighty-four dollars and fifteen cents, damages and costs, be, and the same is hereby, released and discharged. And the Secretary of the Treasury is hereby authorized and directed to pay to the said David Gilmore, out of any money in the Treasury, not otherwise appropriated, the sum of seventy dollars, being the amount of cost expended by the said Gilmore, in defending a suit wrongfully commenced against him.

Sec. 2. *And be it further enacted,* That, if the said David Gilmore, and others, have paid, or shall hereafter, and before they can avail themselves of the benefit of this act, pay, the amount of said judgment, the Secretary of the Treasury is hereby authorized and directed to pay to the said David Gilmore, out of any money in the Treasury, not otherwise appropriated, the amount of said judgment, together with the amount of the Marshal's fees taken thereon.

Approved—March 3, 1825.

*AN ACT for the relief of Jacob A. Blackwell.*

*Be it enacted, &c.* That there be paid to Jacob A. Blackwell, out of any money in the Treasury, not otherwise appropriated, the sum of four hundred and thirty-three dollars and seventy-five cents, being the amount by him paid to the Collector of Washington, in the state of North Carolina, as extra tonnage duty and light money on the Brig Prospect, in the year eighteen hundred and sixteen; the said Brig being taken to be a foreign vessel, when, in point of fact, she was bona fide an American vessel.

Approved—March 3, 1825.

*AN ACT for the relief of Malachi Burns.*

*Be it enacted, &c.* That the Commissioner of the General Land Office, upon application, cause a patent to be issued to Malachi Burns, or his legal representatives, for three hundred and two acres of land, situated in the Parish of Feliciana, in the state of Louisiana, according to the boundaries of a plat thereof, made for Edward Metcalf, on the seventh day of January, one thousand eight hundred and seven: *Provided,* This act shall not prejudice, or in any wise affect, the rights of any third person.

Approved—March 3, 1825.

*AN ACT for the continuation of the Cumberland Road.*

*Be it enacted, &c.* That the sum of one hundred and fifty thousand dollars, of moneys not otherwise appropriated, be, and the same is hereby, appropriated, for the purpose of opening and making a road from the town of Canton, in the state of Ohio, on the right bank of the Ohio river, opposite the town of Wheeling, to the Muskingum river, at Zanesville, in said state; which said sum of one hundred and fifty thousand dollars shall be replaced out of the fund reserved for laying out and making roads under the direction of Congress, by the several acts passed for the admission of the states of Ohio, Indiana, Illinois, and Missouri, into the Union, on an equal footing with the original states.

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Sec. 2. *And it further enacted*, That, for the immediate accomplishment of this object, the President, with the advice of the Senate, shall appoint some fit person as the superintendent of said road, whose duty it shall be, under the direction of the President, to divide the same into sections of not more than ten miles each; to contract for, and personally superintend, the opening and making the said road, as well as to receive, disburse, and faithfully account with the Treasury for, all sums of money by him received in virtue of this act.

Sec. 3. *And be it further enacted*, That the superintendent shall not be interested, directly or indirectly, in the avails of any contracts so to be made by him as aforesaid: That he shall, before he enters upon the discharge of the duties enjoined by this act, execute a bond to the United States, with security, to be approved of by the Secretary of the Treasury, conditioned for the faithful discharge of his duties prescribed by this act: That he shall hold his office during the pleasure of the President, and shall receive at the rate of one thousand five hundred dollars per annum for his services, during the time he may be employed in the discharge of the duties required by this act.

Sec. 4. *And be it further enacted*, That the President of the United States be, and he is hereby, authorized and empowered to appoint one impartial and judicious person, not being a citizen of either of the states through which the road, hereafter mentioned, shall pass, to be a Commissioner; and, in case of the death, resignation, refusal to act, or any disability of any such Commissioner, to appoint another in his stead, who shall have power, according to the provisions of the act, entitled "An act to authorize the appointment of Commissioners to lay out the road therein mentioned," approved May fifteenth, one thousand eight hundred and twenty, to complete the examination and survey heretofore commenced by virtue of the provisions of said act, and to extend the same to the permanent seat of Government of the state of Missouri; the said road to conform, in all respects, to the provisions of the said recited act, except that it shall pass by the seat of Government of the states of Ohio, Indiana, and Illinois; and the said Commissioner and the person employed under him, shall receive the same compensation for their services, respectively, as is allowed by the said recited act: *Provided, however*, That the said road shall commence at Zanesville, in the state of Ohio; and to defray the expense thereof, the sum of ten thousand dollars is hereby appropriated, out of the appropriation made by the first section of this act.

Approved—March 3, 1825.

*AN ACT more effectually to provide for the punishment of certain crimes against the United States, and for other purposes.*

*Be it enacted, etc.* That if any person or persons, within any fort, dock-yard, navy-yard, arsenal, armory, or magazine, the site whereof is ceded to, and under the jurisdiction of, the United States, or on the site of any light-house, or other needful building belonging to the United States, the site whereof is ceded to them, and under their jurisdiction, as aforesaid, shall wilfully and maliciously burn any dwelling house, or mansion house, or any store, barn, stable, or other building, parcel of any dwelling or mansion house, every person, so offending, his or her counsellors, aiders, and abettors, shall be deemed guilty of felony, and shall, on conviction thereof, suffer death.

Sec. 2. *And be it further enacted*, That, if any person or persons, in any of the places aforesaid, shall wilfully and maliciously set fire to, or burn, any arsenal, armory, magazine, rope-walk, ship-house, ware-house, block-house, or barrack, or any store-house, barn, or stable, nor parcel of a dwelling-house, or any other building, not mentioned in the first section of this act, or any ship or vessel, built, or building, or begun to be built, or repairing, or any light-house, or beacon, or any timber, cables, rigging, or other materials for building, repairing, or fitting out, ships or vessels, or any pile of wood, boards, or other lumber, or any military, naval, or victualling stores, arms, or other munitions of war, every person, so offending, his or her counsellors, aiders, and abettors, shall be deemed guilty of felony, and shall, on conviction thereof, be punished by fine, not exceeding five thousand dollars, and by imprisonment and confinement to hard labor, not exceeding ten years, according to the aggravation of the offence.

Sec. 3. *And be it further enacted*, That if any offence shall be committed, in any of the places aforesaid, the punishment of which offence is not specially provided for by any law of the United States, such offence shall, upon a conviction in any court of the United States, having cognizance thereof, be liable to, and receive, the same punishment as the laws of the state, in which such fort, dock-yard, navy-yard, arsenal, armory, or magazine, or other place, ceded as aforesaid, is situated, provide for the like offence, when committed within the body of any county of such state.

Sec. 4. *And be it further enacted*, That if any person or persons, upon the high seas, or in any arm of the sea, or in any river, haven, creek, basin, or bay, within the admiralty and maritime jurisdiction of the United States, and out of the jurisdiction of any particular state, shall commit the crime of wilful murder, or rape, or shall wilfully and maliciously strike, stab, wound, poison, or shoot at, any other person, of which striking, stabbing, wounding, poisoning, or shooting, such person shall afterwards die, upon land, within or without the United States, every person so offending, his or her counsellors, aiders, or abettors, shall be deemed guilty of felony, and shall, upon conviction thereof, suffer death.

Sec. 5. *And be it further enacted*, That if any offence shall be committed on board of any ship or vessel, belonging to any citizen or citizens of the United States, while lying in a port or place within the jurisdiction of any foreign state or sovereign, by any person belonging to the company of said ship, or any passenger, or any other person belonging to the company of said ship, or any other passenger, the same offence shall be cognizable and punishable by the proper Circuit Court of the United States, in the same way and manner, and under the same circumstances, as if said offence had been committed on board of such ship or vessel on the high seas, and without the jurisdiction of such foreign sovereign or state: *Provided, always*, That if such offender shall be tried for such offence, and acquitted or convicted thereof, in any competent court of such foreign state or sovereign, he shall not be subject to another trial in any court of the United States.

Sec. 6. *And be it further enacted*, That if any person or persons upon the high seas, or in any arm of the sea, or in any river, haven, creek, basin, or bay, within the admiralty and maritime jurisdiction of the United States, and out of the jurisdiction of any particular state, shall, by surprise, or by open force or violence, maliciously attack or set upon, any ship or vessel belonging, in whole or in part, to the United States, or to any citizen or citizens thereof, or to any other person whatsoever, with an intent unlawfully to plunder the same ship or vessel, or to despoil any owner or owners thereof of any moneys, goods, or merchandise, laden on board thereof; or shall, by force or violence, or by putting in fear, unlawfully plunder any such ship or vessel, or steal or carry away any money,

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goods, or merchandise, laden on board thereof; every person so offending, his or her counsellors, aiders, or abettors, shall be deemed guilty of felony, and shall, on conviction, thereof, be punished by fine not exceeding five thousand dollars, and by imprisonment and confinement to hard labor, not exceeding ten years, according to the aggravation of the offence.

Sec. 7. *And be it further enacted*, That if any person or persons upon the high seas, or in any other of the places aforesaid, with intent to kill, rob, steal, commit a rape, or to do or perpetrate any other felony, shall break or enter any ship or vessel, boat, or raft; or if any person or persons shall wilfully and maliciously cut, spoil, or destroy, any cordage, cable, buoys, buoy-rope, headfast, or other fast, fixed to any anchor or moorings, belonging to any ship, vessel, boat, or raft, every person, so offending, his or her counsellors, aiders, and abettors, shall be deemed guilty of felony, and shall, on conviction thereof, be punished by fine, not exceeding one thousand dollars, and by imprisonment or confinement to hard labor, not exceeding five years, according to the aggravation of the offence.

Sec. 8. *And be it further enacted*, That, if any person or persons upon the high seas, or in any of the places aforesaid, shall buy, receive, or conceal, or aid in concealing, any money, goods, bank notes, or other effects or things which may be the subject of larceny, which have been feloniously taken or stolen from any other person, knowing the same to have been taken or stolen, every person so offending shall be deemed guilty of a misdemeanor, and may be prosecuted therefor, although the principal offender chargeable, or charged with the larceny, shall not have been prosecuted or convicted thereof; and shall, on conviction thereof, be punished by fine not exceeding one thousand dollars, and imprisonment and confinement to hard labor, not exceeding three years, according to the aggravation of the offence.

Sec. 9. *And be it further enacted*, That, if any person or persons shall plunder, steal, or destroy, any money, goods, merchandise; or other effects, from, or belonging to, any ship or vessel, or boat, or raft, which shall be in distress, or which shall be wrecked, lost, stranded, or cast away, upon the sea, or upon any reef, shoal, bank, or rocks of the sea, or in any other place within the admiralty and maritime jurisdiction of the United States; or if any person or persons shall wilfully obstruct the escape of any person endeavoring to save his or her life from such ship or vessel, boat, or raft, or the wreck thereof; or if any person or persons shall hold out or show any false light or lights, or extinguish any true light, with intention to bring any ship or vessel, boat or raft, being or sailing upon the sea, into danger, or distress, or shipwreck, every person so offending, his or her counsellors, aiders, and abettors, shall be deemed guilty of felony, and shall, on conviction thereof, be punished by fine, not exceeding five thousand dollars, and imprisonment and confinement to hard labor, not exceeding ten years, according to the aggravation of the offence.

Sec. 10. *And be it further enacted*, That, if any master or commander of any ship or vessel, belonging, in whole or in part, to any citizen or citizens of the United States, shall, during his being abroad, maliciously, and without justifiable cause, force any officer or mariner of such ship or vessel on shore, or leave him behind, in any foreign port or place, or refuse to bring home again all such of the officers and mariners of such ship or vessel, whom he carried out with him, as are in a condition to return, and willing to return, when he shall be ready to proceed in his homeward voyage, every master or commander, so offending, shall, on conviction thereof, be punished by fine, not exceeding five hundred dollars, or by imprisonment, not exceeding six months, according to the aggravation of the offence.

Sec. 11. *And be it further enacted*, That if any person or persons shall wilfully and maliciously set on fire, or burn, or otherwise destroy, or cause to be set on fire, or burnt, or otherwise destroyed, or aid, procure, abet, or assist in setting on fire, or burning, or otherwise destroying, any ship or vessel of war of the United States, afloat on the high seas, or in any arm of the sea, or in any river, haven, creek, basin, or bay, within the admiralty jurisdiction of the United States, and out of the jurisdiction of any particular state, every person, so offending, shall be deemed guilty of felony, and shall, on conviction thereof, suffer death: *Provided*, That nothing herein contained shall be construed to take away or impair the right of any court martial to punish any offence, which by the law of the United States, may be punishable by such court.

Sec. 12. *And be it further enacted*, That if any officer of the United States shall be guilty of extortion, under or by color of his office, every person, so offending, shall, on conviction thereof, be punished by fine, not exceeding five hundred dollars, or by imprisonment, not exceeding one year, according to the aggravation of the offence.

Sec. 13. *And be it further enacted*, That if any person, in any case, matter, hearing, or other proceeding, when an oath or affirmation shall be required to be taken or administered under or by any law or laws of the United States, shall, upon the taking of such oath or affirmation, knowingly and willingly swear or affirm falsely, every person, so offending, shall be deemed guilty of perjury, and shall, on conviction thereof, be punished by fine, not exceeding two thousand dollars, and by imprisonment and confinement to hard labor, not exceeding five years, according to the aggravation of the offence. And if any or persons shall knowingly or willingly procure any such perjury to be committed, every person, so offending, shall be deemed guilty of subornation of perjury, and shall, on conviction thereof, be punished by fine, not exceeding two thousand dollars, and by imprisonment and confinement to hard labor, not exceeding five years, according to the aggravation of the offence.

Sec. 14. *And be it further enacted*, That, if any person, upon his or her arraignment upon any indictment before any court of the United States for any offence, not capital, shall stand mute, or will not answer or plead to such indictment, the court shall, notwithstanding, proceed to the trial of the person so standing mute, or refusing to answer or plead, as if he or she had pleaded not guilty, and upon a verdict being returned by the jury, may proceed to render judgment accordingly. And the trial of all offences, which shall be committed upon the high seas, or elsewhere, out of the limits of any state or district, shall be in the district where the offender is apprehended, or into which he may be first brought.

Sec. 15. *And be it further enacted*, That in every case where any criminal, convicted of any offence against the United States, shall be sentenced to imprisonment and confinement to hard labor, it shall be lawful for the court, by which the sentence is passed, to order the same to be executed in any state prison or penitentiary within the district where such court is holden; the use of which prison or penitentiary may be allowed or granted by the Legislature of such state for such purposes; and the expenses attendant upon the execution of such sentence shall be paid by the United States.

Sec. 16. *And be it further enacted*, That, if any person who shall be employed as president, cashier, clerk, or servant, in the Bank of the United States, created and established by an act, entitled "An act to incorporate the subscribers to the Bank of the United States," passed on the tenth day of April, in the year of our Lord one thousand eight hundred and sixteen, or in any office of discount and deposit established by the Directors of said Bank, in any state or territory of the United States, shall feloniously take, steal, and carry away, any money, goods, bond,

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bill, bank note, or other note, check, draft, Treasury note, or other valuable security, or effects, belonging to said bank, or deposited in said bank; or, if any person so employed as president, cashier, clerk, or servant, shall fraudulently embezzle, secrete, or make away with, any money, goods, bond, bill, bank note, or other note, draft, Treasury note, or other valuable security or effects, which he shall have received, or which shall come to his possession or custody by virtue of such employment, every person so offending, shall be deemed guilty of felony, and shall, on conviction thereof, be punished by fine, not exceeding five thousand dollars, and by imprisonment and confinement to hard labor, not exceeding ten years, according to the aggravation of the offence.

Sec. 17. *And be it further enacted,* That if any person or persons shall falsely make, forge, or counterfeit, or cause or procure to be falsely made, forged, or counterfeited, or willingly aid or assist in falsely making, forging, or counterfeiting, any paper, writing, or instrument, in imitation of, or purporting to be, an indent, certificate of the public stock, or debt, Treasury note, or other public security of the United States, or any letters patent, issued or granted by the President of the United States, or any bill, check, or draft, for money drawn by or on the Treasurer of the United States, or by or on any other public officer or agent of the United States, duly authorized to make, draw, accept, or pay the same, on behalf and for account of the United States; or if any person or persons shall pass, utter, or publish, or attempt to pass, utter, or publish, as true, any such false, forged, or counterfeited paper, writing, or instrument, knowing the same to be false, forged, or counterfeited, with intent to defraud the United States, or any body politic or corporate, or any other person or persons whatsoever; or if any person or persons shall falsely alter any indent, certificate of the public stock or debt, Treasury note, or other public security of the United States, or any letters patent, issued or granted by the President of the United States, or any bill, check, or draft for money drawn by or on the Treasurer of the United States, or any other public officer or agent of the United States, duly authorized to make, draw, accept, or pay, such bill, check, or draft; or if any person or persons shall pass, utter, or publish, or attempt to pass, utter, or publish, as true and unaltered, any such falsely altered indent, certificate, Treasury note, or other public security, letters patent, or bill, check, or draft, knowing the same to be falsely altered, with intent to defraud the United States, or any body politic or corporate, or any person or persons whatsoever; every such person, so offending, shall be deemed guilty of felony, and shall, on conviction thereof, be punished by fine, not exceeding five thousand dollars, and by imprisonment and confinement to hard labor, not exceeding ten years, according to the aggravation of the offence.

Sec. 18. *And be it further enacted,* That if any person or persons shall falsely make, forge, or counterfeit, or cause or procure to be falsely made, forged, or counterfeited, or willingly aid or assist in falsely making, forging, or counterfeiting, any paper, writing, or instrument, in imitation of, or purporting to be, any letter of attorney, or other authority or instrument to assign, transfer, sell, or convey, any share or sum in the public stock or debt of the United States, or in the capital stock of the President, Directors, and Company, of the Bank of the United States, or to receive any annuity or annuities, dividend or dividends, due or to become due on any such stock or debt; or to receive any pension, prize money, wages, or other debt or sum of money due, or to become due, from the United States; or shall forge or counterfeit, or cause or procure to be forged or counterfeited, or willingly aid or assist in forging or counterfeiting, the name or names of any of the holders or proprietors of any such public stock or debt, or of any person entitled to any such annuity, dividend, pension, prize-money, wages, or other debt or sum of money, as aforesaid, in or to any such pretended letter of attorney, authority, or instrument; or shall knowingly and fraudulently demand, or endeavor to have or obtain, such share or sum in such public stock or debt, or capital stock of the said bank, or to have any part thereof transferred, assigned, sold, or conveyed, or such annuity, dividend, pension, prize-money, wages, or other debt or sum of money, or any part thereof, to be received or paid, by virtue of any such false, forged, or counterfeited letter of attorney, authority, or instrument; or shall falsely and deceitfully personate any true or real proprietor or holder of such share or sum in such public stock or debt, or capital stock of the said Bank, or any person entitled to such annuity, dividend, pension, prize money, wages, or other debt or sum of money as aforesaid, and thereby transferring, or endeavoring to transfer, such public stock or debt, or capital stock of the said Bank, or receiving, or endeavoring to receive, the money of such true or lawful holder or proprietor thereof, or the money of such person or persons, really and truly entitled to receive such annuity, dividend, pension, prize-money, wages, or other debt, or sum of money, as aforesaid, as if such offender were the true and lawful owner thereof, and entitled thereto, every person, so offending, shall be deemed guilty of felony, and shall, on conviction thereof, be punished, by fine, not exceeding five thousand dollars, and by imprisonment and confinement to hard labor, not exceeding ten years, according to the aggravation of the offence.

Sec. 19. *And be it further enacted,* That if any person or persons shall falsely make, forge, or counterfeit, or cause or procure to be falsely made, forged, or counterfeited, or willingly aid or assist in falsely making, forging, or counterfeiting, any instrument in imitation of, or purporting to be, an abstract or official copy, or certificate of the recording, registry, or enrolment of any ship or vessel, in the office of any collector of the customs of the United States, or a licence to any ship or vessel for carrying on the coasting trade, or fishery or fisheries of the United States, or a certificate of ownership, pass, passport, sea-letter, or clearance, granted for any ship or vessel, under the authority of the United States, or a permit, debenture, or other official document, granted by any collector or other officer of the customs, by virtue of his or their office; or shall falsely alter any abstract, official copy, or certificate, of any recording, registering, or enrolling of any ship or vessel in the office of any collector of the customs of the United States, or any license to any ship or vessel for carrying on the coasting trade or fisheries of the United States, or any certificate of ownership, pass, passport, sea-letter, or clearance, granted for any ship or vessel under the authority of the United States, or any permit, debenture, or other official document granted by any collector, or other officer of the customs, by virtue of his or their office; or shall pass, utter, or publish, or attempt to pass, utter, or publish, as true, any such false, forged, or counterfeited instrument, or any such falsely altered abstract, official copy, certificate, license, pass, passport, sea-letter, clearance, permit, debenture, or other official document as aforesaid, knowing the same to be false, forged, or counterfeited, or falsely altered, with an intent to defraud the United States, or any other body politic or corporate, or person whatsoever; every person, so offending, shall be deemed guilty of felony, and shall, on conviction thereof, be punished by fine, not exceeding one thousand dollars, and by imprisonment and confinement to hard labor, not exceeding three years.

Sec. 20. *And be it further enacted,* That if any person or persons shall falsely make, forge, or counterfeit, or cause or procure to be falsely made, forged or counterfeited, or willingly aid or assist in falsely making, forging, or counterfeiting, any coin, in the resemblance or similitude of the gold or silver coin, which has been, or heretofore

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ter may be, coined at the Mint of the United States, or in the resemblance or similitude of any foreign gold or silver coin, which, by law, now is, or hereafter may be, made current in the United States; or shall pass, utter, publish, or sell, or attempt to pass, utter, publish, or sell, or bring into the United States, from any foreign place, with intent to pass, utter, publish, or sell as true, any such false, forged, or counterfeited coin, knowing the same to be false, forged, or counterfeited, with intent to defraud any body politic or corporate, or any other person, or persons, whatsoever; every person, so offending, shall be deemed guilty of felony, and shall, on conviction thereof, be punished by fine, not exceeding five thousand dollars, and by imprisonment, and confinement to hard labor, not exceeding ten years, according to the aggravation of the offence.

Sec. 21. *And be it further enacted*, That, if any person or persons shall falsely make, forge, or counterfeit, or cause or procure to be falsely made, forged, or counterfeited, or willingly aid or assist in falsely making, forging, or counterfeiting any coin, in the resemblance or similitude of any copper coin, which has been, or hereafter may be, coined at the Mint of the United States, or shall pass, utter, publish, or sell, or attempt to pass, utter, publish, or sell, or bring into the United States, from any foreign place, with intent to pass, utter, publish, or sell, as true, any such false, forged, or counterfeited coin, with intent to defraud any body politic or corporate, or any other person or persons, whatsoever; every person, so offending, shall be deemed guilty of felony, and shall, on conviction thereof, be punished by fine, not exceeding one thousand dollars, and by imprisonment and confinement to hard labor, not exceeding three years.

Sec. 22. *And be it further enacted*, That if any person or persons upon the high seas, or in any arm of the sea, or in any river, haven, creek, basin, or bay, within the admiralty jurisdiction of the United States, and out of the jurisdiction of any particular state, on board any vessel belonging in whole or in part, to the United States, or any citizen or citizens thereof, shall, with a dangerous weapon, or with intent to kill, rob, steal, or to commit a mayhem, or rape, or to perpetrate any other felony, commit an assault on another, such person shall, on conviction thereof, be punished by fine, not exceeding three thousand dollars, and by imprisonment and confinement to hard labor, not exceeding three years, according to the aggravation of the offence.

Sec. 23. *And be it further enacted*, That, if any person or persons shall, on the high seas, or within the United States, wilfully and corruptly conspire, combine, and confederate, with any other person or persons, such other person or persons being either within or without the United States, to cast away, burn, or otherwise destroy, any ship or vessel, or to procure the same to be done, with intent to injure any person, or body politic, that hath underwritten, or shall thereafterwards underwrite, any policy of insurance thereon, or on goods on board thereof, or with intent to injure any person, or body politic, that hath lent or advanced, or thereafter shall lend or advance, any money on such vessel, on bottomry or respondentia, or shall, within the United States, build or fit out, or aid in building or fitting out, any ship or vessel, with intent that the same shall be cast away, burnt, or destroyed, for the purpose or with the design aforesaid, every person, so offending, shall, on conviction thereof, be deemed guilty of felony, and shall be punished by fine, not exceeding ten thousand dollars, and by imprisonment and confinement to hard labor, not exceeding ten years.

Sec. 24. *And be it further enacted*, That if any of the gold or silver coins which shall be struck or coined at the Mint of the United States, shall be debased, or made worse, as to the proportion of fine gold or fine silver therein contained, or shall be of less weight or value than the same ought to be, pursuant to the several acts relative thereto, through the default or with the connivance of any of the officers or persons who shall be employed at the said mint, for the purpose of profit or gain, or otherwise, with a fraudulent intent; and if any of the said officers or persons shall embezzle any of the metals which shall, at any time, be committed to their charge for the purpose of being coined, or any of the coins which shall be struck or coined at the said mint, every such officer or person who shall commit any or either of the said offences, shall be deemed guilty of felony, and shall be sentenced to imprisonment and hard labor for a term not less than one year, nor more than ten years, and shall be fined in a sum not exceeding ten thousand dollars.

Sec. 25. *And be it further enacted*, That all acts and parts of acts, inconsistent with the provisions of this act, shall be, and the same are hereby, repealed: *Provided, nevertheless*, That all such acts, and parts of acts, shall be and remain in full force for the punishment of all offences committed before the passing of this act.

Sec. 26. *And be it further enacted*, That nothing in this act contained shall be construed to deprive the courts of the individual states of jurisdiction, under the laws of the several states, over offences made punishable by this act.

Approved—March 3, 1835.

*AN ACT for the relief of Stephen, Arnold, David, and George Jenks, second.*

*Be it enacted, &c.* That the proper accounting officers of the Treasury settle and adjust the claim of Stephen, Arnold, David, and George Jenks, second, for the manufacture of three thousand nine hundred and twenty-five muskets, manufactured for the United States, under a contract with Tench Cox, entered into on the twenty-sixth day of October, one thousand eight hundred and eight, and to make them such further allowance as shall be equal to that allowed to others, who contracted about the same time, to manufacture arms for the United States, and who have had their accounts settled under special acts of Congress, keeping in view the quality of the arms delivered, with the additional labor bestowed, more than would have been necessary to have made muskets equal to the pattern gun, and such allowance, so made, deducting therefrom such sums, if any, as the claimants are indebted for advances, already made on said contract, with the interest thereon from the twenty-sixth day of October, one thousand eight hundred and thirteen, shall be paid out of any money in the Treasury, not otherwise appropriated.

Approved—March 3, 1835.

*AN ACT for the relief of Walter Story Chandler.*

*Be it enacted, &c.* That the proper officers of the Treasury be hereby authorized and directed to pay to Walter Story Chandler, or to his legal representatives, the amount of principal and interest due on the five following final settlement certificates, which are alleged to have been destroyed while in the possession of the said Walter Story Chandler, viz: Number eighty-four thousand six hundred and seventy-six, dated November first, one thousand seven hundred and eighty-four, issued to Christopher Henson, amount forty-seven dollars sixty cents, interest from first January, one thousand seven hundred and eighty-eight; number eighty-four thousand six hundred and fifty-one, dated first November, one thousand seven hundred and eighty-four, issued to John Gray, amount forty-three



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dollars thirty cents, interest from first January, one thousand seven hundred and eighty-eight; number eighty-four thousand four hundred and eighty-nine, dated first March, one thousand seven hundred and eighty-five, issued to Solomon Barret, amount forty-three dollars thirty cents, interest the same as the foregoing; number eighty-eight thousand three hundred and twenty-nine, dated first January, one thousand seven hundred and eighty-five, issued to William Lewis, amount, forty-eight dollars forty-one cents, interest the same as the foregoing; number seventy-nine thousand nine hundred and eighty-one, issued the eleventh of August, one thousand seven hundred and eighty-four, to Thomas Auboney, for one hundred and twenty-three dollars, thirty cents, interest the same as on the foregoing. The same to be paid out of any money in the Treasury, not otherwise appropriated: *Provided*, That the said Walter Story Chandler, or his legal representatives, execute a satisfactory security to the Secretary of the Treasury, to indemnify the United States against all claims for the future payment of the said certificates to any person whatever.

Approved—March 3, 1825.

*AN ACT concerning Wrecks on the coast of Florida.*

*Be it enacted, etc.* That, if any ship or vessel shall, after the passing of this act, be engaged or employed in carrying or transporting any property whatsoever taken from any wreck from the sea, or from any of the keys or shoals within the jurisdiction of the United States, on the coast of Florida, to any foreign port or place, every such ship or vessel, so engaged and employed, together with her tackle, apparel, and furniture, shall be wholly forfeited, and may be seized and condemned in any court of the United States, or territories thereof, having competent jurisdiction.

Sec. 2. *And be it further enacted*, That all property, of every description whatsoever, which shall be taken from any wreck from the sea, or from any of the keys and shoals within the jurisdiction of the United States, on the coast of Florida, shall be brought to some port of entry within the jurisdiction aforesaid.

Sec. 3. *And be it further enacted*, That all and every forfeiture or forfeitures, which shall be incurred by virtue of the provisions of this act, shall accrue one moiety to the informer or informers, and the other to the United States, and may be mitigated or remitted, in manner prescribed by the act, entitled "An act to provide for mitigating or remitting the forfeitures, penalties, and disabilities, accruing in certain cases therein mentioned," passed the third day of March, one thousand seven hundred and ninety-seven, and made perpetual by an act passed eleventh of February, one thousand eight hundred.

Approved—March 3, 1825.

*AN ACT to authorize the surveying and opening of a road from Detroit to Chicago, in the state of Illinois.*

*Be it enacted, etc.* That the President of the United States be, and he is hereby, authorized to appoint three Commissioners, who shall explore, survey, and mark, in the most eligible course, a road from Detroit, in the territory of Michigan, to Chicago, in the state of Illinois: And said Commissioners shall make out accurate plats of such surveys, accompanied with field notes, and certify and transmit the same to the President of the United States, who, if he approves of said survey, shall cause the plats thereof to be deposited in the office of the Treasury of the United States.

Sec. 2. *And be it further enacted*, That the said Commissioners shall each be entitled to receive three dollars, and their assistants one dollar and fifty cents each, for each and every day which they shall be necessarily employed in exploring, surveying, and making said road, and making out the plat and field notes above required: And for the purpose of compensating the said Commissioners and their Assistants, there shall be, and is hereby, appropriated the sum of three thousand dollars, to be paid out of any moneys in the Treasury, not otherwise appropriated.

Approved—March 3, 1825.

*AN ACT for the relief of Michael McKewen.*

*Be it enacted, etc.* That the Attorney General of the United States be authorized and directed to cause satisfaction in full to be entered upon certain judgments of the United States against Michael McKewen, upon condition that the said Michael McKewen, or his legal representatives, execute a full release of all claims of the said Michael McKewen, for an assignment of an account of John Morris, a wardmaster in the Revolutionary war, for one hundred and seven dollars and forty-four ninetieths, and also for two final settlement certificates, the one of them numbered eighty-one thousand seven hundred and fifty-four, for eighty dollars, and the other of them numbered eighty-two thousand one hundred and fifty-four, for forty-three dollars and thirty ninetieths, as well as for all other claims of the said Michael McKewen against the United States.

Approved—March 3, 1825.

*AN ACT for the relief of Reuben Ewing and others.*

*Be it enacted, &c.* That the Agent of the Treasury be empowered and directed to cause that the judgment recovered in the state of Kentucky against Reuben Ewing and others, the security of William Whitsell, late Regimental Paymaster, be endorsed satisfied, on the payment of sixty dollars, the interest on this sum, and the costs of suit.

Approved—March 3, 1825.

*AN ACT for the relief of Rachel McClure.*

*Be it enacted, &c.* That the proper accounting officers of the Treasury Department settle the account of William McClure, deceased, late a soldier in the United States' army, for balance of bounty and monthly pay, due him at the time of his discharge; and that the same be paid to Rachel McClure, widow of said William, and administratrix of his estate, out of any money in the Treasury, not otherwise appropriated.

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Sec. 2. *And be it further enacted*, That the Secretary of War issue a warrant to the heirs of said William M'Clure for the bounty land to which their father was entitled by his enlistment and service in the army of the United States.

Approved—March 3, 1825.

*ACT for the relief of William P. Yonge.*

*Be it enacted, etc.* That there be paid to William P. Yonge, out of any money in the Treasury, not otherwise appropriated, the sum of three hundred and thirty-eight dollars, being the amount of extra tonnage duty and light money illegally exacted by the Collector of St. Mary's, of the owners of the British brig Henry, in the year eighteen hundred and eighteen.

Approved—March 3, 1825.

*AN ACT for the relief of John Heck.*

*Be it enacted, etc.* That John Heck be, and he is hereby, released from a judgment obtained against him, as the surety of Nicholas Krehl, late a Postmaster at Shippingsburg, by the Postmaster General, for the use of the United States: *Provided*, That the said Heck shall pay the legal costs which have accrued in the prosecution of said demand.

Approved—March 3, 1825.

*AN ACT for the relief of John Crain.*

*Be it enacted, etc.* That the accounting officers of the Treasury Department be, and they hereby are, authorized to audit and settle the claim of John Crain, on account of a certificate, No. eight thousand three hundred and fourteen, issued in favor of James Swart, by John Pierce, and dated thirteenth of August, one thousand seven hundred and eighty-four, for one hundred dollars; which certificate has been lost, and appears to be outstanding and unpaid, and to pay to the said John Crain, or his legal representatives, the principal of the said certificate, and so much of the interest as appears to be due thereon, out of any money in the Treasury, not otherwise appropriated: *Provided*, That the said John Crain, or his legal representatives, execute and deliver to the Comptroller of the Treasury, a bond of indemnity, in such sum, and with such security, as the said Comptroller may approve.

Approved—March 3, 1825.

*AN ACT for the relief of the representatives of Frederick Goetz and Charles W. Westfall.*

*Be it enacted, &c.* That the proper accounting officers of the Treasury Department settle and adjust the claim of the representatives of Frederick Goetz and Charles W. Westfall, for the manufacturing of one thousand and nineteen muskets, for the United States, under a contract with Tench Coxe, entered into on the thirteenth day of July, one thousand eight hundred and eight, and make them such further allowance as shall be equal to that allowed to others who contracted about the same time to manufacture arms for the United States, and who have had their contracts settled under special acts of Congress, keeping in view the quality of the arms delivered, with the additional labor bestowed, more than would have been necessary to have made muskets equal to the pattern gun; and such allowance, so made, shall be paid out of any money in the Treasury, not otherwise appropriated: *Provided*, That, before the representatives of Frederick Goetz and Charles W. Westfall be entitled to receive any money under the provisions of this act, they shall exhibit to the said officers satisfactory proof of their appointment.

Approved—March 3, 1825.

*AN ACT for the relief of the Companies of Mounted Rangers, commanded by Captains Boyle and M'Girth.*

*Be it enacted, &c.* That the provisions of an act, entitled "An act for the relief of the Officers, Volunteers, and other persons, engaged in the late campaign against the Seminole Indians," be, and the same are, extended so as to embrace the officers and men who composed two companies of Mounted Rangers, commanded by Captain Thomas H. Boyle and Captain M'Girth, in the year one thousand eight hundred and eighteen, on the southern frontier of the United States; and the officers and men composing the companies beforementioned shall be entitled to receive all the benefits of said recited act, as those who served in the campaign against the Seminole Indians, and no more.

Approved—March 3, 1825.

*AN ACT for the relief of James Lenox and William Mailland, G. B. Abeel, Gulian Ludlow, and Hector Scott.*

*Be it enacted, etc.* That the Secretary of the Treasury be, and he is hereby, authorized and empowered to pay to J. Lenox and W. Mailland, G. B. Abeel, Gulian Ludlow, and Hector Scott, the amount of their several debentures, which were issued to the persons above mentioned, in their own rights, or held by them as legal representatives or assignees of, persons to whom such debentures were originally issued, by Joshua Sands, when Collector of the customs for the port of New-York, for the payment of the drawback of duties on merchandise exported to New Orleans, between the first day of July, one thousand seven hundred and ninety-nine, and the tenth day of February, one thousand eight hundred: *Provided, however*, That satisfactory proof be first given to the Secretary of the Treasury, that the goods, wares, or merchandise, on which the drawback of duties is hereby allowed, were landed at New Orleans.

Sec. 2. *And be it further enacted*, That a sum, not exceeding seven hundred and thirty-nine dollars be, and the same is hereby, appropriated, out of any moneys in the Treasury, not otherwise appropriated, for the purpose of paying the debentures above mentioned.

Approved—March 3, 1825.

*Be it enacted, &c.* That the Collector for the District of Bath be, and he is hereby, directed to pay to John M. Moody and Samuel Moody, owners of a fishing schooner, which was called the Welcome Return, of one hundred and six tons, and to the persons composing the crew of the said vessel, or their legal representatives, the amount of the allowance to which they would have been, by law, severally entitled, if said vessel had returned into port, after completing her fishing term.

Sec. 2. *And be it further enacted*, That the Collector of New London, in the state of Connecticut, be, and he is hereby, directed to pay to Elijah Bailey, Christopher Lester, Daniel Douglas, and Noyes Barber, owners of a fishing schooner, called the Lucy Anne, of forty-seven tons and twenty-three ninety-fifths of a ton, and the persons composing the crew of the said vessel, or their legal representatives, the amount of the allowance to which they would have been by law severally entitled, if said vessel had returned into port after completing her fishing term.

Approved—*March 3, 1825.*

*Be it enacted, etc.* That the Secretary of the Treasury be, and he is hereby, authorized to settle, upon principles of equity, the accounts of John McLure, of Virginia, lately engaged as a contractor, in making a road from Cumberland, in Maryland, to the state of Ohio; and that the balance which may be found due to the said John McLure be paid to him out of any money in the Treasury, not otherwise appropriated.

Approved—*March 3, 1825.*

*Be it enacted, etc.* That the proper accounting officers of the Treasury Department admit to the credit of Capt. Richard Hightower, the sum of five hundred dollars, and if that sum shall exceed the amount of his account, or the judgment which the United States have obtained against the said Hightower, that such remaining balance be paid to him, out of any money in the Treasury, not otherwise appropriated.

Approved—March 3 1895

Approved—*March 3, 1825.*

*Be it enacted, etc.* That the Secretary of the Treasury be, and he hereby is, directed to pay, out of any money in the Treasury, not otherwise appropriated, to Gregory Ennis and William R. Maddox, the sum of three thousand and eighteen dollars and fifty-five cents, in full for a balance due them by the Corporation of Washington, for the graduation and improvement of the circular road round the Capitol Square.

Approved—*March 3, 1825.*

*Be it enacted, etc.* That the President of the United States be, and he is hereby, authorized to cause to be built, in addition to the present naval force of the United States, a number of sloops of war; not exceeding ten, to carry not less than twenty guns, each, of such description and weight of metal as the President may direct; and that the sum of five hundred thousand dollars be, and the same is hereby, appropriated, for the aforesaid purpose, out of any money in the Treasury, not otherwise appropriated.

Sec. 2. *And be it further enacted*, That the President of the United States be, and he is hereby, authorized to cause to be sold, at such time, and in such manner, as he shall judge best for the public interest, the whole, or a part, of the vessels which were purchased under the authority of the act, entitled "An act authorizing an additional naval force for the suppression of piracy;" also, the whole of the public vessels upon Lakes Erie, Ontario, and Champlain, except the ships of the line New Orleans and Chippewa, now on the stocks, under cover, at Sackett's Harbor.

Sec. 3. *And be it further enacted*, That the proceeds of such sales shall be applied, under the direction of the President of the United States, to the repairs and building of sloops of War, which have been, or may be, authorized to be built.

Approved—March 3, 1825.

Approved—*March 3, 1825.*

*Be it enacted, &c.* That the proper accounting officers of the Treasury Department be, and they are hereby, authorized and directed to liquidate and settle the claim of the state of Virginia against the United States, for interest upon loans or moneys borrowed and actually expended by her, for the use and benefit of the United States, during the late war with Great Britain.

Sec. 2. *And be it further enacted*, That, in ascertaining the amount of interest, as aforesaid, due to the state of Virginia, the following rules shall be understood as applicable to and governing the case, to wit: First, That interest shall not be computed on any sum which Virginia has not expended for the use and benefit of the United States, as evidenced by the amount refunded or repaid to Virginia by the United States. Second, That no interest shall be paid on any sum on which she has not paid interest. Third, That, when the principal, or any part of it, has been paid or refunded by the United States, or money placed in the hands of Virginia for that purpose, the interest on the sum or sums so paid or refunded, shall cease, and not be considered as chargeable to the United States, any longer than up to the time of the repayment as aforesaid.

Sec. 3. *And be it further enacted*, That the amount of the interest, when ascertained as aforesaid, shall be paid out of any money in the Treasury, not otherwise appropriated.

Approved—March 3, 1825.

Approved—*March 3, 1825.*

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*AN ACT for the relief of Jonathan Hudson, of Baltimore.*

*Be it enacted, etc.* That the sum of four hundred and thirty dollars be allowed to Jonathan Hudson, of Baltimore, in part payment of the revenue bond, given by Matthew Pascal, on which he was one of the sureties, being so much paid by him as consignee of the Spanish brig San Francisco, Miguel Zenteno master, to the Collector of Norfolk; which payment was illegally exacted, he having previously paid the tonnage duty, on entry of said brig, to the Collector of the port of Baltimore.

Approved—March 3, 1825.

*AN ACT discharging a judgment against the Representatives of Elijah Wadsworth, deceased.*

*Be it enacted, etc.* That a judgment rendered in favor of the United States in the Circuit Court of the United States, in and for the Seventh Ohio District, at the July term, in the year eighteen hundred and twenty-four, against the representatives of Elijah Wadsworth, deceased, late a Major General in the service of the United States, be, and the same is hereby, discharged, and made null and void.

Approved—March 3, 1825.

*AN ACT for the relief of Joseph Dozet and Antoine Bourgoud.*

*Be it enacted, etc.* That the proper accounting officers of the Treasury Department be, and they are hereby, authorized and directed to ascertain and settle the claims of Joseph Dozet and Antoine Bourgoud, for the damage done by the destruction of their property, adjoining the garrison on the river Raisin, in the Michigan territory, on the fifteenth day of August, in the year eighteen hundred and twelve, by order of Colonel John Anderson, commandant of said garrison; and that the amount thereof be paid out of any unappropriated moneys in the Treasury: *Provided*, That the sum, so allowed, shall not exceed four hundred dollars: *And Provided, also*, That it shall be made to appear that the said Joseph Dozet and Antoine Bourgoud have not received the amount of their claim or any part thereof, from the said John Anderson; and that the aforesaid sum, when paid, shall be in full satisfaction for two several judgments, heretofore recovered against the said Anderson.

Approved—March 3, 1825.

*AN ACT for the relief of Otis Pendleton, Harris Pendleton, John F. Delaplaine, Elijah P. Delaplaine, and others.*

*Be it enacted, etc.* That the Collector of the Customs for the District of New London, in Connecticut, be, and he is hereby, directed to pay to Otis Pendleton, and Harris Pendleton, late owners of a fishing schooner called the Elizabeth, of sixty-three tons and forty-two ninety-fifths of a ton burthen, which vessel was lost at sea, and to the persons composing the crew of said schooner, the allowance to which said vessel would have been entitled had she returned into port after completing her fishing term; to be distributed according to law.

*Sec. 2. And be it further enacted*, That the Collector for the port of New York be, and he is hereby, directed to pay to John F. Delaplaine and Elijah P. Delaplaine, owners of a fishing schooner called the Sandford William, of the burthen of one hundred and twenty-five tons, and to the persons composing the crew of the said schooner, to be distributed according to law, the amount of the fishing allowance, the payment of which was refused by the said Collector, in consequence of the loss of the original fishing agreement accidentally burnt during the fishing voyage of the said schooner, in the year one thousand eight hundred and twenty-four.

Approved—March 3, 1825.

*AN ACT to extend the time for the settlement of private land claims in the territory of Florida, to provide for the preservation of the public Archives in said Territory, and for the relief of John Johnson.*

*Be it enacted, etc.* That, when the Secretary of the Treasury shall be satisfied that John Johnson, of Indiana, did enter, at the Brookville Land Office, in said state, the east half of the northeast quarter of section thirty-five, and the west half of the northwest quarter of section thirty-six, in township seventeen, north, in range four, east, by mistake, instead of the east half of the southeast quarter, and the west half of the southwest quarter of the same sections, it shall be lawful for a patent to be issued to the said John Johnson for the two last mentioned half quarters, so intended to be entered, on his relinquishing to the United States his interest in, and surrendering the patent issued for, the two first mentioned half quarters, in such manner as shall be directed by the Secretary of the Treasury.

*Sec. 2. And be it further enacted*, That, the Commissioners appointed to ascertain claims and titles to the land in East Florida, be, and they are hereby, authorized to continue their session until the first Monday of January, one thousand eight hundred and twenty-six, under the same laws, ordinances, and regulations, heretofore established for their government.

*Sec. 3. And be it further enacted*, That so much of the act, entitled "An act to extend the time limited for the settlement of private land claims in Florida, as renders void all claims to land in said territory, not filed on or before the first day of September, one thousand eight hundred and twenty-four, be, and the same is hereby, repealed, and it shall be lawful for claims to be filed before the Board of Commissioners in East Florida, any time prior to the first day of November, one thousand eight hundred and twenty-five.

*Sec. 4. And be it further enacted*, That there shall be appointed two additional Clerks to the Board of Commissioners of East Florida, to each of whom shall be allowed the sum of seven hundred dollars, to be paid quarterly by the Treasury of the United States.

*Sec. 5. And be it further enacted*, That each of the Commissioners appointed for the examination of claims in East Florida, be allowed at the rate of two thousand dollars per annum, in full for their services, to be paid quarterly at the Treasury of the United States, out of any money in the Treasury, not otherwise appropriated: *Provided, however*, That no one of said Commissioners shall be entitled to draw any portion of the compensation hereby allowed him, except on showing an actual and faithful performance of the duties required of him.

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Sec. 6. *And be it further enacted*, That it shall be the duty of the late Commissioners for the examination of titles and claims to land in West Florida, and of their Clerk, to deliver to the Register and Receiver of the Land Office for the Western Land District of Florida, all records, evidence, and papers, in the possession of them, or either of them, relating to said titles and claims. And it shall be the duty of said Register and Receiver to examine and decide on all titles and claims to land in West Florida, not heretofore decided upon by said Commissioners, subject to the limitations, and in conformity with the provisions of the acts of Congress heretofore passed on that subject.

Sec. 7. *And be it further enacted*, That the several claimants of land, in said district, where claims have not been heretofore decided on, be permitted to file their claims, and the evidence in support of them, with the Register and Receiver of said District, at any time before the first day of November next; whose duty it shall be to report the same, with their decision thereon, to the Secretary of the Treasury, on or before the first day of January next, to be laid before Congress at the next session.

Sec. 8. *And be it further enacted*, That the said Register and Receiver shall have power to appoint their Clerk, and prescribe his duties, and who shall be allowed, in full compensation for his services, the sum of eight hundred dollars, and said Register and Receiver shall each be allowed the sum of one thousand dollars for the performance of the duties required of them by this act, which said several sums of money shall be paid said Register and Receiver, and their Clerk, out of any money in the Treasury, not otherwise appropriated, whenever the business is completed, and the report approved by the Secretary of the Treasury.

Sec. 9. *And be it further enacted*, That the President of the United States be, and he is hereby, authorized to appoint two officers, to be called the Keepers of the Public Archives in the territory of Florida, one of whom shall keep his office at St. Augustine, in East Florida, and the other at Pensacola, in West Florida.

Sec. 10. *And be it further enacted*, That the said officers shall each give bond and security in the sum of twenty thousand dollars, for the safe keeping and preservation of the said archives, and for the faithful performance of the duties of their respective offices, and the translation of such of the records and documents as are hereinafter provided for, and shall each receive a salary of five hundred dollars, to be paid quarterly from the Treasury of the United States.

Sec. 11. *And be it further enacted*, That the said officers shall cause to be made a faithful and complete translation and record of all the Spanish records and documents delivered to them, and having relation to land claims derived from the Spanish and British Governments, distinguishing and keeping separately those which relate to grants made within the districts of Baton Rouge, Mobile, north of latitude thirty-one, and those made within the present limits of Florida; a complete descriptive list of each of which translations and records, when completed, shall be forwarded to the Secretary of the Treasury, and the said officers shall, severally, be entitled to receive from the Treasury of the United States, on the completion of the work, a compensation at the rate of ten cents for each hundred words by them translated and recorded.

Sec. 12. *And be it further enacted*, That the said officers shall make out and deliver to individual applicants, copies or translations of any documents in their said offices, on being paid for the same at the rate of six and one-fourth cents for each hundred words.

Sec. 11. *And be it further enacted*, That the several sums of money hereby appropriated shall be paid out of any money in the Treasury, not otherwise appropriated.

Approved—March 3, 1825.

*AN ACT* authorizing the Secretary of the Treasury to borrow a sum not exceeding twelve millions of dollars, or to exchange a stock of four and one half per cent. for a certain stock bearing an interest of six per cent.

*Be it enacted, etc.* That the President of the United States be, and he is hereby, authorized to borrow, on or before the first day of January next, on the credit of the United States, a sum not exceeding twelve millions of dollars, at a rate of interest, payable quarterly, not exceeding four and one-half per centum per annum, six millions whereof reimbursable at the pleasure of the Government, at any time after the thirty-first day of December, in the year eighteen hundred and twenty-eight; and six millions at any time after the thirty-first day of December, in the year eighteen hundred and twenty-nine, to be applied, in addition to the moneys which may be in the Treasury at the time of borrowing the same, to pay off and discharge such part of the six per cent. stock of the United States, of the year one thousand eight hundred and thirteen, as may be redeemable after the first day of January next.

Sec. 2. *And be it further enacted*, That it shall be lawful for the Bank of the United States to lend the said sum, or any part thereof; and it is hereby further declared that it shall be deemed a good execution of the said power to borrow, for the Secretary of the Treasury, with the approbation of the President of the United States, to cause to be constituted certificates of stock, signed by the Register of the Treasury, or by a Commissioner of Loans, for the whole or any part thereof, bearing an interest not exceeding four and one-half per centum per annum, transferrable and reimbursable as aforesaid, and to cause the said certificates to be sold: *Provided*, That no stock be sold under par.

Sec. 2. *And be it further enacted*, That a subscription to the amount of twelve millions of dollars of the six per cent stock of the year eighteen hundred and thirteen, be, and the same is hereby, proposed, for which purpose books shall be opened at the Treasury of the United States, and at the several loan offices, on the first day of April next, to continue open until the first day of October thereafter, for such parts of the above mentioned description of stock as shall, on the day of subscription, stand on the books of the Treasury, and on those of the several loan offices, respectively; which subscription shall be effected by a transfer to the United States, in the manner provided by law for such transfers, of the credit or credits standing on the said books, and by a surrender of the certificates of the stock so subscribed: *Provided*, That all subscription by such transfer of stock shall be considered as part of the said twelve millions of dollars authorized to be borrowed by the first section of this act.

Sec. 4. *And be it further enacted*, That, for the whole or any part of any sum, which shall be thus subscribed, credits shall be entered to the respective subscribers, who shall be entitled to a certificate or certificates, purporting that the United States owe to the holder or holders thereof, his, her, or their assigns, a sum to be expressed therein, equal to the amount of the principal stock thus subscribed, bearing an interest not exceeding four and one-half per centum per annum, payable quarterly, from the thirty-first day of December, one thousand eight hundred and twenty-five, transferrable in the same manner as is provided by law for the transfer of the stock subscribed, and



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subject to redemption, at the pleasure of the United States, as follows: one-half at any time after the thirty-first day of December, one thousand eight hundred and twenty-eight, and the remainder at any time after the thirty-first day of December, in the year one thousand eight hundred and twenty-nine: *Provided*, That no reimbursement shall be made, except for the whole amount of such new certificate, nor until after at least six months' public notice of such intended reimbursement. And it shall be the duty of the Secretary of the Treasury to cause to be re-transferred to the respective subscribers, the several sums by them subscribed beyond the amount of the certificates of four and one-half per cent. stock issued to them, respectively.

Sec. 5. *And be it further enacted*, That the same funds which have heretofore been, and now are pledged by law for the payment of the interest, and for the redemption and reimbursement of the stock which may be redeemed or reimbursed by virtue of the provisions of this act, shall remain pledged in like manner for the payment of the interest accruing on the stock created by reason of such subscription, and for the redemption or reimbursement of the principal of the same. And it shall be the duty of the Commissioners of the Sinking Fund, to cause to be applied and paid, out of the said fund, yearly, and every year, such sum and sums as may be annually required to discharge the interest accruing on the stock which may be created by virtue of this act. The said Commissioners are also hereby authorized to apply, from time to time, such sum and sums out of the said fund, as they may think proper, towards redeeming, by purchase, or by reimbursement, in conformity with the provisions of this act, the principal of the said stock; and such part of the annual sum of ten millions of dollars, vested by law in the said Commissioners, as may be necessary and required for the above purposes, shall be, and continue appropriated to the payment of interest and redemption of the public debt, until the whole of the stock which may be created under the provisions of this act, shall have been redeemed or reimbursed.

Sec. 6. *And be it further enacted*, That nothing in this act shall be construed in any wise to alter, abridge, or impair, the right of those creditors of the United States who shall not subscribe to the loan to be opened by virtue of this act.

Approved—March 3, 1825.

*AN ACT to authorize the Register or Enrolment and License to be issued in the name of the President or Secretary of any incorporated Company, owning a steam boat or vessel.*

*Be it enacted, &c.* That enrolments and licenses for steam-boats or vessels, owned by any incorporated company, may be issued in name of the President or Secretary of such Company; and that such enrolments and licenses shall not be vacated or affected by a sale of any share or shares of any stockholder or stockholders, in such Company.

Sec. 2. *And be it further enacted*, That registers for steam-boats or vessels, owned by any incorporated company, may be issued in the name of the President or Secretary of such Company; and that such registers shall not be vacated or affected by a sale of any share or shares of any stockholder or stockholders, in such Company.

Sec. 3. *And be it further enacted*, That, upon the death, removal, or resignation, of the President or Secretary of any incorporated company, owning any steam-boat or vessel, a new register, or enrolment and license, as the case may be, shall be taken out for such steam-boat or vessel.

Sec. 4. *And be it further enacted*, That, previously to granting a register, or enrolment and license, for any steam-boat or vessel, owned by any company, the President or Secretary of such company shall swear, or affirm, as to the ownership of such steam-boat or vessel, by such company, without designating the names of the persons composing such company; which oath or affirmation shall be deemed sufficient, without requiring the oath or affirmation of any other person interested or concerned in such steam-boat or vessel.

Sec. 5. *And be it further enacted*, That, before granting a register for any steam-boat or vessel, so owned by any incorporated company, the President or Secretary thereof shall swear or affirm that, to the best of his knowledge and belief, no part of such steam-boat or vessel has been, or is then, owned by any foreigner or foreigners.

Approved, March 3, 1825.

*AN ACT to establish the city of Hudson and the city of Troy, in the state of New York, Bowdoinham, in the state of Maine, and Fairport, in the state of Ohio, ports of delivery, and to abolish Topsham as a port of delivery.*

*Be it enacted, &c.* That the city of Hudson, and the city of Troy, in the state of New York, Bowdoinham, in the district of Bath, in the state of Maine, and Fairport, in the district of Cuyahoga, in the state of Ohio, be, and the same are hereby, severally, made a port of delivery.

Sec. 2. *And be it further enacted*, That the port of delivery established at Topsham, in the state of Maine, be, and the same is hereby, abolished.

Approved—March 3, 1825.

*AN ACT authorizing the establishment of a Navy Yard and Depot, on the coast of Florida, in the Gulf of Mexico.*

*Be it enacted, &c.* That the President of the United States be, and he is hereby, authorized to select and purchase a site for a Navy Yard and Depot, on the coast of Florida, in the Gulf of Mexico, and to erect such buildings, and make such improvements thereon, as he may judge necessary for the accommodation and supply of the United States' vessels of war in that quarter; and that the sum of one hundred thousand dollars be appropriated for effecting that object, out of any moneys in the Treasury, not otherwise appropriated.

Approved—March 3, 1825.

*AN ACT to authorize the building of Light-Houses and Light Vessels, and Beacons and Monuments, therein mentioned; and for other purposes.*

*Be it enacted, &c.* That the Secretary of the Treasury be, and he is hereby, empowered to provide, by contract, for building Light-houses and Light-vessels, erecting Beacons and Monuments, and placing Buoys, on the following sites or shoals, to wit:—

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A lighthouse on a proper site on Moose Peak Islands, in the state of Maine; and a monument on a proper site on Stage Island, in the same state.

A lighthouse on a proper site, at or near the mouth of Burlington Harbor, in the state of Vermont.

A house at the entrance of Nantucket Harbor, for the keeper, with a tower on the same for the lantern, in the state of Massachusetts.

A lighthouse, on Dutch Island, in Narraganset Bay, in the state of Rhode Island; and a small beacon light on Warwick Neck, in the same state.

Three small beacons at the entrance of Mill River Harbor, in the state of Connecticut.

A lighthouse near the Fire Island inlet, on the south side of Long Island, in the state of New York; and a light-house on Stony Point, instead of Verplank's Point, as heretofore directed, in the same state.

A lighthouse on Cedar Point, at or near the mouth of Patuxent River, in the state of Maryland, and a small beacon light on Point Look Out, at the mouth of Potomac, in the same state.

A light-vessel for Albemarle Sound, in the state of North Carolina, to be placed either at or near the south Point of Roanoke Island, or at the end of Wade's Point Shoal, at the mouth of Pasquotank River, in the same state.

A lighthouse on Point Defer, in the state of Louisiana.

Sec. 2. *And be it further enacted*, That there be appropriated, out of any money in the Treasury, not otherwise appropriated, the following sums of money, to wit:

For a lighthouse on the Moose Peak Islands, in the state of Maine, four thousand dollars; for a monument on Stage Island, one thousand five hundred dollars; and for placing a buoy, in Winter Harbor, in the same state, fifty dollars.

For a lighthouse at the mouth of Burlington Harbor, in the state of Vermont, four thousand dollars.

For the keeper's house at the entrance of Nantucket Harbor, with a tower on the same, in the state of Massachusetts, sixteen hundred dollars.

For a lighthouse on Dutch Island, in Narraganset Bay, in the state of Rhode Island, three thousand dollars; and for a small beacon light on Warwick Neck, in the same state, one thousand dollars.

For three small beacons at the entrance of Mill River Harbor, in the state of Connecticut, two thousand six hundred dollars.

For a lighthouse near Fire Island Inlet, in the state of New York, a sum not exceeding ten thousand dollars; and for the lighthouse heretofore directed to be built on Throg's Neck, and for the site thereof, in the same state, seven thousand dollars.

For a lighthouse on Cedar Point, in the state of Maryland, six thousand dollars; and for a small beacon light on Point Look Out in the same state, one thousand eight hundred dollars.

For the light vessel to be placed on Albemarle Sound, in the state of North Carolina, a sum not exceeding five thousand five hundred dollars. For replacing the buoy at Ocracoke Inlet, and for two buoys to be placed, one at Fulcher's Point, and one at Cross Rock, Croatan Sound, in the same state, one hundred and eighty dollars.

For three buoys to be placed at proper places, at the entrance of the harbor of Pensacola, in the territory of Florida, one hundred and eighty dollars.

For the lighthouse on Point Defer, in the state of Louisiana, ten thousand dollars.

For completing the work to secure Plymouth Beach, in the state of Massachusetts, five thousand seven hundred and twelve dollars.

For erecting a pier at the mouth of Cuyahoga River in the state of Ohio, five thousand dollars; and for completing the pier at the mouth of Grand River, in the same state, one thousand dollars.

And for surveys to be made under the direction of the President of the United States, for the following purposes, to wit: to ascertain the practicability and necessity of constructing a pier at the mouth of the Harbor of Marblehead, for the security of shipping; and also a pier in the Harbor of Holmes' Hole, for the same object, in the state of Massachusetts, the sum of four hundred dollars.

Approved—March 3, 1825.

*AN ACT for the relief of Nimrod Farrow and Richard Harris.*

*Be it enacted, &c.* That the Secretary of War cause to be withdrawn and dismissed, a suit which is now pending by the United States against Nimrod Farrow and his securities, for moneys advanced him by the United States, as one of the contractors for erecting a fort on Dauphin Island; and that the bond on which the suit was instituted, be cancelled.

Sec. 2. *And be it further enacted*, That the Secretary of War cause to be delivered up and released, by proper conveyances, to Nimrod Farrow, contractor for erecting a fort on Dauphin Island, all liens or securities which the United States may hold on property, real or personal, of the said contractor.

Sec. 3. *And be it further enacted*, That the proper accounting officers of the Treasury Department pay unto Nimrod Farrow, contractor for erecting a fort on Dauphin Island, or to his legal representatives, the sum of seventy-three thousand seven hundred and forty-seven dollars and seventy-eight cents: *Provided*, That the said Nimrod Farrow, before he shall receive any of the personal property to be delivered as aforesaid, and before he shall be entitled to receive the money above mentioned, he shall enter into a bond to the Secretary of War, with security, to the acceptance of said Secretary, in the penal sum of one hundred and twenty thousand dollars, conditioned that the said Nimrod Farrow shall appropriate the nett proceeds of the personal property, and the money so to be received, towards the payment of the debts contracted by Farrow and Harris, or either of them, or any other person or persons contracting under said Farrow and Harris, for supplies furnished, and services rendered, in and about the erection of said fortification; and that, if there shall be any surplus, after paying the said debts contracted as aforesaid, said Farrow shall pay to the said Harris, or his legal representatives or assignees, his just proportion of said surplus; which bond shall be deposited with the Secretary of War; and it shall be the duty of the said Secretary, upon the application of any of the parties interested therein, and satisfactory proof of the failure of the said Nimrod Farrow to fulfil the condition thereof, to cause the said bond to be prosecuted for the benefit of the party or parties making such application, and of such other person or persons as may have an interest in said bond.

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Sec. 4. *And be it further enacted*, That an inventory be taken of such personal property as shall be returned to the said Farrow, under the provisions of this act, and an estimate of its value be made, under such regulations as the Secretary of War may prescribe, and that there be paid unto the said Farrow such difference as exists between the value of the personal property at the time the same was taken, possession of by the Government, and its return, together with the value of the personal property destroyed or lost while the same was in the possession of the Government, at the same was lost or destroyed by the act of God.

Sec. 5. *And be it further enacted*, That the several sums to be paid by the provisions of this act, be paid out of any money in the Treasury, not otherwise appropriated.

Approved—March 3, 1825.

*AN ACT for the relief of Luther Chapin, of Ohio.*

*Be it enacted, &c.* That the proper accounting officers of the Treasury Department be, and they are hereby, authorized and directed to pay, out of any money in the Treasury, not otherwise appropriated, to Luther Chapin, the sum of fifty dollars, for services performed by said Chapin during the late war, in navigating from Cleveland, in Ohio, to Malden, in Upper Canada, in the year eighteen hundred and twelve, the schooner Miami, employed in transporting a part of the Ohio volunteers across Lake Erie, after their surrender by General Hull.

Approved—March 3, 1825.

*AN ACT for the relief of Richard Cain and Isaac Baldwin, of Ohio.*

*Be it enacted, &c.* That the President of the United States be, and he is hereby, authorized to issue a patent to Richard Cain and Isaac Baldwin, for the east half of the southeast quarter of fractional section numbered fifteen, in township number three, of range number three in the Marietta land district, in the state of Ohio, which was purchased of the United States at a sale thereof, made under a circular of the late Commissioner of the General Land Office, issued by mistake, dated January second, one thousand eight hundred and twenty-three.

Approved—March 3, 1825.

*An ACT amendatory of the act, entitled "An act to incorporate the Provident Association of Clerks in the Civil Department of the Government of the United States, in the District of Columbia."*

*Be it enacted, etc.* That, from and after the first day of April, eighteen hundred and twenty-four, the funds of "The Provident Association of Clerks" shall be appropriated and paid to the families of deceased members, at the following rates, to wit: to the families of such members as may die before the expiration of the fifth year of their membership, twice the amount of the subscription which shall have been paid by such members respectively: to the families of members dying after the expiration of the fifth year of their membership, one hundred dollars: and, after the expiration of each succeeding year, until the fifteenth year of their membership shall have expired, the additional sum of fifty dollars shall be paid—so that every member dying after the fifteenth year of his membership, shall have provided for his family, out of the funds of the Association, the sum of six hundred dollars: to the families of such members as may die, at any time after the expiration of the sixteenth year of their membership, there shall be paid six hundred dollars, and an interest of twelve per centum per annum, on the sum of one hundred and fifty dollars, computing the said interest from the expiration of the fifteenth year, to the commencement of the year in which such deaths may occur: and a further interest of twelve per cent. per annum, upon all sums, exclusive of fines, which shall have been paid into the funds of the Association by such members, respectively, after the said sixteenth year of their membership to be computed from the periods at which such payments shall have been made, to the commencement of the year in which such deaths may occur: *Provided, however*, That, if it shall happen that the payments herein directed to be made, shall, in any year, diminish the funds of the Association below the amount thereof at the end of the next preceding year, the President and Board of Officers be, and they are hereby, authorized and directed to reduce the amount of interest, so as to prevent the recurrence of such diminution of the funds: *And provided, also, and it is further directed*, That it shall be the duty of the said President and Board of Officers, at the end of each successive period of five years, computing from the first of January, one thousand eight hundred and twenty four, if it shall appear that the increase of the funds of the Association shall have been, during such periods, respectively, at a rate greater than six per centum per annum, at compound interest, to pay to each of the families of such as may have died during the next preceding five years, such additional sum as shall be proportioned to the sums herein before provided: *Provided*, That such additional sums shall not, in the aggregate, exceed the amount of the funds of the Association, over and above the amount produced by the aforesaid interest of six per centum per annum.

Sec. 2. *And be it further enacted*, That the President and Board of Officers of the Provident Association of Clerks be, and they are hereby, authorized, whenever they shall judge it expedient and advantageous to the Association, either for the purpose of paying the debts of the Association, or for the purpose of reinvesting it in more safe and profitable stock, to sell any of the stock now belonging to, or that may, at any time hereafter, belong to, the said Association.

Sec. 3. *And be it further enacted*, That the membership of persons belonging to "The Provident Association of Clerks," shall commence from the date of the first quarterly payments, made agreeably to law.

Sec. 4. *And be it further enacted*, That any member of the Association may designate, in writing, addressed to the President and Board of Officers, the particular person or persons to whom the payment of money, accruing from the Association, shall be made for the benefit of his family; which person or persons, so designated, shall receive the same; and his or their receipt therefor to the Treasurer, shall be a full acquittal to the Association.

Sec. 5. *And be it further enacted*, That so much of the act, of which this is amendatory, as is inconsistent with the provisions of this act, be, and the same is hereby, repealed.

Approved—March 3, 1825.

18th CONGRESS, }  
2d Session. }

*Laws of the United States.*

*An ACT for the relief of Thomas Taylor, junior.*

*Be it enacted, &c.* That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay to Thomas Taylor, junior, out of any money in the Treasury, not otherwise appropriated, one thousand and eighty-one dollars, and sixty cents, being in full for filling up and gravelling the carriage way on the north side of the President's House, and for work done on New York Avenue, between Seventh street west and the President's wall.  
Approved—March 3, 1825.

*AN ACT for the relief of George Love.*

*Be it enacted, &c.* That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay to George Love, out of any money in the Treasury, not otherwise appropriated, the sum of sixty-two dollars and eighty cents, the amount paid as Paymaster of the New York Militia, to the Representatives of deceased officers and soldiers, not heretofore allowed.

Approved—March 3, 1825.

*AN ACT for the relief of Gilbert C. Russell.*

*Be it enacted, &c.* That the Third Auditor of the Treasury ascertain, (by the best evidence the nature of the case will admit, the rules for taking of which he shall prescribe,) the value (at the time of seizure,) of the property owned by Gilbert C. Russell, at Mobile Point, in the year eighteen hundred and twenty-one, that was seized by an armed force acting under the orders of Captain De Russey, of the United States' army.

Sec. 2. *And be it further enacted,* That the said Auditor, in like manner, ascertain the value of the labor performed by the said Gilbert C. Russell, towards the erection of a fort at Mobile Point; whether the same was in erecting barracks, or in preparing materials for the further prosecution of the works at that place; and that the said Auditor report the amounts, so ascertained, to the Secretary of the Treasury, who is authorized and directed to pay the same to the said Russell, out of any money in the Treasury, not otherwise appropriated.

Approved—March 3, 1825.

*AN ACT for the relief of James Porter and Tunstall Quarles.*

*Be it enacted, etc.* That James Porter and Tunstall Quarles, of the state of Kentucky, be, and they are hereby, released from a judgment obtained against them by the Post Office Department, as the sureties of William J. Sa-  
lee: *Provided,* That said sureties shall pay the legal costs which have accrued in the prosecution of said demand.

Approved—March 3, 1825.

*AN ACT for the relief of Christian Jacob Burckle.*

*Be it enacted, etc.* That the Collector of the Port of Philadelphia be, and he is hereby, authorized to permit Christian Jacob Burckle to export, with the benefit of drawback, two packages of Spanish playing cards, which were imported into that port in the brig Hibernia, from Hamburg, the said Christian Jacob Burckle complying with all the forms and requisites of the existing acts allowing the benefit of drawback in other cases.

Approved—March 3, 1825.

*AN ACT for the relief of Holden W. Prout, administrator on the estate of Joshua W. Prout, deceased.*

*Be it enacted, etc.* That the proper accounting officers of the Treasury Department be, and they are hereby, authorized and directed to audit and settle the claims of Holden W. Prout, administrator on the estate of Joshua W. Prout, deceased, for pay due James Milliken, William Melone, Lewis Ashburn, William Trotman, Henry King, James McCledden, William Hill, James Ferguson, William Forest, and Samuel Vance, soldiers of the Mississippi Militia, at the time of their respective discharges, and pay the amount found due to the said Holden W. Prout, out of any money in the Treasury, not otherwise appropriated.

Approved—March 3, 1825.

*AN ACT to authorize the surveying and making a Road from Little Rock to Cantonment Gibson, in the Territory of Arkansas.*

*Be it enacted, etc.* That the President of the United States be, and he is hereby, authorized to appoint three Commissioners, who shall explore, survey, and mark, in the most eligible course, a road from Little Rock to Cantonment Gibson, in the Territory of Arkansas; and said Commissioners shall make out accurate plats of such surveys, accompanied with field notes, and certify and transmit the same to the President of the United States, who shall cause the same to be deposited in the War Office.

Sec. 2. *And be it further enacted,* That the said road shall be opened and made under the direction of the President of the United States, who is hereby authorized to employ the troops of the United States in the completion, or assisting in the completion, of said road.

Sec. 3. *And be it further enacted,* That the said Commissioners shall each be entitled to receive three dollars, and their assistants one dollar and fifty cents, for each and every day which they shall necessarily be employed in the exploring, surveying, and marking said road: and for the purpose of compensating the aforesaid Commissioners, and their assistants, and for opening and making said road, there shall be, and hereby is, appropriated the sum of ten thousand dollars, to be paid out of any money in the Treasury, not otherwise appropriated.

Approved—March 3, 1825.